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A  
CONGRESSIONAL MANUAL;  
OR,  
OUTLINE  
OF THE  
ORDER OF BUSINESS  
IN THE  
HOUSE OF REPRESENTATIVES  
OF THE  
United States.  
WITH COPIOUS INDEXES.  
[SECOND EDITION.]

BY JOEL B. SUTHERLAND.

PHILADELPHIA:  
PETER HAY & CO.—PRINTERS.

1841.

150740

*Eastern District of Pennsylvania, to wit:*

BE it remembered, that on the twentieth day of May Anno Domini One Thousand Eight Hundred and Thirty Nine, Peter Hay & Co. of the said District, have deposited in this office the Title of a Book, the Title of which is in the words following, to wit: "A Congressional Manual; or Outline of the Order of Business in the House of Representatives of the United States. With copious Indexes. By Joel B. Sutherland." The right whereof they claim as proprietors, in conformity with an act of Congress, entitled "An Act to amend the several Acts respecting Copy-Rights."

FRA. HOPKINSON,  
*Clerk of the District.*

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# PREFACE.



**THIS MANUAL** has been undertaken and executed mainly with the view of giving gentlemen, who may not have served as members of our National Legislature, some small insight into the mode of transacting the business of Congress, especially in the House of Representatives of the United States. Members of the several State Legislatures will also find it serviceable in the performance of their legislative duties, while at the same time it will, in some measure, qualify them for a seat in the House of Representatives of the United States, in the event of their promotion to that distinguished body. Perhaps, occasionally the old members of congress may find it a convenient reference.

This work contains the Declaration of Independence, the Constitution of the United States, Rules of both Houses of Congress, and Jefferson's Manual, besides a mass of important parliamentary forms worthy the attention of every man desirous of becoming acquainted with the congressional practice of the country.

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# CONGRESSIONAL MANUAL.

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## OPENING OF THE SESSION OF CONGRESS.

The two houses of Congress are directed to convene by the Constitution of the United States on the first Monday in December. It usually happens, that a quorum of the members attend and enter upon their duties on that day.

The members meet in their respective chambers at 12 o'clock, meridian. Those who arrive first at the opening of any first session of Congress, are entitled to select their seats in any part of the house,\* which is done by the member's taking the

\* In parliament, members who wish to sit in any particular part of the house on a given evening, must go down at the time of prayers, and label the particular place with their name. If they neglect to do this, they cannot claim any particular seat as a right,—though it may be conceded to them by the courtesy of other members, if it be the place they usually filled. The seats occupied by members of the government are, however, understood to be exceptions to this rule. Ministers, and those holding important government offices, are not



key and writing his name on the desk. This right of selecting urges the gentlemen to the seat of government at an early day. The selection will stand for the congress, or two years.

In the senate, the seats are taken usually for the full term. Yet the old senators may change to places left vacant by gentlemen whose term of service expired, and who are not re-elected. The new senators can take their choice of such seats as are vacant, in the same manner as in the house of representatives, the first who come having the advantage of the choice. In the senate, however, it is not very important, where a gentleman may be seated, as it is a small chamber, where he can hear and be heard without difficulty. In the house it is a subject of much interest with some to get into the interior of the chamber, and not be cast upon the frontier seats of a body composed of two hundred and forty-two representatives.

The members in Washington at twelve o'clock, therefore, repair to their respective seats; and the clerk at his desk in front of the speaker's chair, at the hour of twelve rises, and asks if it is the pleasure of the house that he should proceed to open the session, which being agreed to, he calls over the names of the members by states and territories, and announces the number present.

put to the trouble of placarding their names on the backs of their seats, as no other member, however crowded the house, would think of occupying their places. When an important debate is expected, almost all the seats, with the exception of those occupied by the members of the government, are thus labelled the moment that prayers are over.—*Recollections of the House of Commons.*

He then, (a quorum having answered to their names,) propounds another question to the house, *iz.* Is it the pleasure of the house to proceed to the election of speaker? which question being decided in the affirmative, he names three or four members to count the votes, and asks if they shall act as tellers; which being agreed to, the sergeant-at-arms and door-keeper of the late house carry the boxes provided for the reception of the ballots to the members; and having received them all, deposit them at the clerk's desk, where the tellers are seated. The ballots are then taken from the boxes and counted. The choice of speaker is always made by ballot; and the tellers read aloud the names of the persons voted for, so that the members may all, if they desire, distinctly hear and count the tickets deposited for the respective candidates. It usually happens that the speaker is elected on the first ballot; but if not, the boxes are again carried round, and the count continued by the tellers till a *majority of the whole number* of the votes polled have been received by some one of the candidates, or the house adjourns over till some other day. The majority of the votes of the *members present* having been cast for some one of the candidates, and the tellers having reported that fact, the clerk announces that —— is elected speaker for the — congress.\* He is conducted by two of the senior

\* In Parliament, the speaker is elected, not at the commencement of each session, but at the meeting of every new parliament. The title Speaker is given to him because he alone has the right to speak to or address the king in the name and on behalf the house. In the chair, he sits chiefly

members of the house to the chair, when he delivers an appropriate address; and the clerk invites one of the gentlemen who conducted him thither, to administer to the speaker, the oath to support the constitution of the United States, as prescribed by the constitution and the act entitled "An act to regulate the time and manner of administering certain oaths, passed the first day of June, 1789." The following is the form of the oath:

I A. B. do solemnly swear, or affirm, [as the case may be,] that I will support the constitution of the United States.

After the speaker has taken the preceding oath, the clerk calls over the names of the gentlemen alphabetically, who come up to the chair as called, when the speaker administers to them the requisite qualification.\* This is done in compliance with the following article of the constitution of the United States:

"The senators and representatives (of the congress of the United States,) and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support the constitution of the United States."

It will be observed that this is the practice at in the capacity of a moderator of the assembly, never taking any part in the proceedings, or expressing any opinion on the subject-matter of discussion.

\* In some of the state legislatures the speaker and members, after having been duly qualified, *sign their names to a copy of the oath or affirmation*, in a book kept by the clerk for that purpose.

ommencement of *each congress*. But when second session opens, the speaker takes the and calls the house to order. The election, fore, stands for a congress, or two sessions. same practice prevails as to clerk, sergeant-at-arms, and door-keeper; they continue *for the congress*.—At the reassembling of the twenty-first congress, at its second session, Mr. Speaker Stevenson was prevented from attending, from indisposition, on the first Monday of December, when the house, having heard the cause of his non-attendance, adjourned over till the next day, at which time he appeared and took the chair.

It is the practice in some of the state legislatures, when the sergeant-at-arms or door-keeper announces “the secretary of the senate,” for the speaker to repeat “the secretary of the senate” before the secretary announces his message from the other house. The custom has been supposed to be a good one, as it informs the whole house of the message from the chair, the best selected position in the house to be heard by all the members, while it notifies the secretary from the chair, that the presiding officer is prepared to receive his communication.

The speaker and members being duly qualified, the house now proceeds to the election of clerk. This is sometimes done by resolution, but in most instances by ballot,\* which is conducted in the same manner as in the election for speaker. Tellers are appointed, and the sergeant-at-arms and door-keeper collect the ballots. The clerk being

\* At the third session of the twenty-fifth congress, the clerk was elected *viva voce*, to fill Mr. Franklin's vacancy.

chosen, a majority of votes being polled for him, the speaker administers to him the oath to support the constitution of the United States, and the oath truly and faithfully to discharge the duties of his office, to the best of his knowledge and abilities, as prescribed by the act of June 1st, 1789.

September 4th, 1837. Instead of electing the sergeant-at-arms, door-keeper and assistant door-keeper by ballot, which consumes much time, they were appointed by resolution, thus: *Resolved*, That Roderick Dorsey be appointed sergeant-at-arms, that Overton Carr be appointed principal door-keeper, and John W. Hunter assistant door-keeper. Where there is no intention on the part of the house to *change these officers*, it is decidedly more convenient to appoint them by resolution; for of all uninteresting business that can come before the house, nothing is more so than going through a tedious ballot for sergeant-at-arms, door-keeper and assistant, when they have *no opponents*.

It is usual about this time to pass the following resolution, which some gentleman offers to the consideration of the house :

*Resolved*, That the standing rules and orders of the last house of representatives be adopted as the rules and orders of proceeding of this house.

One of the rules (118) runs thus : " The rules of parliamentary practice comprised in Jefferson's Manual, shall govern the house in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the house and the joint rules of the senate and house of representatives."

In some instances the rules are adopted, with an exception as to some particular rule, which is left open for further consideration. It being, however, exceedingly important to have the great body of the rules adopted for the government of the house, no very serious objections are made to the exception of one or two. The speaker being in the chair, the clerk and sergeant-at-arms elected and sworn, and the rules adopted, the house is considered fully organized, and ready to join with the senate in their legislative duties. Some gentleman, therefore, presents the following resolution:

On motion of Mr. —, *Resolved*, That a message be sent to the senate, to inform that body that a *quorum* of this house has assembled, and that —, one of the representatives from the state of —, has been elected speaker thereof; and that it is now ready to proceed to business, and that the clerk do go with said message.

A majority of the house constitutes a quorum in congress. In the British house of commons, forty are sufficient to do business, and in the house of peers a very small number can do the business of legislation.

The following resolution is now adopted:

*Resolved*, That a joint committee be appointed on the part of this house, to join such committee as may be appointed on the part of the senate, to wait on the president of the United States, and inform him that a quorum of the two houses is assembled, and that congress is ready to receive any communication he may be pleased to make; whereupon the speaker appoints the committee. Their names are *not* publicly announced. The

clerk sends them word, and they enter immediately upon their duties.

It is not always necessary to offer a resolution to appoint a joint committee, as it frequently occurs that the senate notifies the house, through their secretary, that they have adopted such a resolution, and the house merely concurs in it. The following is the message of the senate through their secretary, which is announced to the chair from the bar of the house: "Mr. Speaker—I am directed to inform the house of representatives that a quorum of the senate is assembled, and that the senate is ready to proceed to business. The senate have passed the resolution for the appointment of a joint committee to wait on the President of the United States, and inform him that a quorum of the two houses is assembled and that congress is ready to receive any communications he may be pleased to make, and have appointed Mr. R. and Mr. W. of the committee on its part."

The house proceeds to the consideration of the resolution from the senate, and being read, it was agreed to, and Mr. — of — and Mr. — of — were appointed of the said committee on the part of the house of representatives. Ordered, that the clerk inform the senate. The clerk notifies the senate of the concurrence of the house in their joint resolution.

Nothing further being usually required to be done on the first day of meeting, some gentleman rises and says, "Mr. Speaker,—I move that, till otherwise ordered, the daily hour to which the house shall be adjourned, shall be 12 o'clock meridian." On motion, the house adjourns, and the

r says : " This house stands adjourned till row at 12 o'clock."

speaker on the succeeding day takes the at 12 o'clock, and ascertaining that there is um present, he says : " There is a quorum nbers present ; the clerk will read the jour- yesterday." The clerk rises and reads the dings of the previous day. The speaker, ie view to accuracy, must examine and cor- e journal before it is read in the house. It practice to correct the journals on their g, if any errors are discovered.

journals being read and corrected of any er- ich may have occurred, if any new member ent who has not taken the requisite oath, entleman then rises and informs the speaker, Mr. —, from the state of —, has arriv- d is prepared to enter upon his duties. The r invites the gentleman to step near the where he administers the oath taken by the members. Sometimes the new member in- the speaker, before the house opens, and air announces, after the journals are read, Mr. —, from the — of —, is pre- nd he qualifies him before he enters upon her business. The swearing or affirming of nber *of course precedes* any thing, after g the journals. Otherwise a member and stituents might go unheard, on some im- t bills. It is the practice to swear a mem- any time during the day, as he may come ie house ; no business can constitutionally t him from taking his oath.

delegate takes the same oath as a member



has the franking privilege, the same pay and mileage, but is not allowed to vote. He may, however, address the house at pleasure. It is not now the custom to put a delegate on committees, but it was formerly, and I think a good one, particularly when so large a share of the business is approved or reported against by committees.

On the second day of the session, the joint committees appointed to wait on the president of the United States, report to their respective houses, through their chairman, "That they informed the president that the two houses of congress had assembled, and were ready to receive any communications he might be pleased to make," and that the president informed them that he would make a communication in writing to each house, to-day, at 12 o'clock, meridian."

General Washington and Mr. Adams used to communicate with congress in person at the opening of the session, which by the way I think was a good practice, as it tended to keep up a friendly personal intercourse between the President and Congress. Mr. Jefferson sent the first annual message to congress, with an accompanying letter, which is here presented.\*

\* Page 156, *Senate Journal*.

Jan. 8. 1801. The following letter and message were received from the president of the United States, by Mr. Lewis, his secretary.

SIR,

*December 8th, 1800.*

The circumstances under which we find ourselves at this place, rendering inconvenient the mode heretofore practised of making, by *personal address*, the first communication between the legislative and executive branches of government, I have adopted that by message; as used on all subsequent

The new members being sworn, and the committee that waited on the president having reported, the private secretary of the president enters the house, and bearing a copy of the message to be delivered, and notifying the serjeant-at-arms or door-keeper, that he has a communication with him. The officer standing at the bar of the house, announces, "A message from ~~the~~ president of the United States;" which being done, the private secretary says: "Mr. Speaker, I am charged with a message *in writing* from the President of the United States to the house of representatives." He then proceeds to the chair and hands it to the speaker—when he rises and says: "I present to the house a message in writing from the President of the United States," and asks if it is the pleasure of the house that it should be read; which being agreed to, the clerk reads it to the house. He usually reads a *printed copy*, as the message is printed *confidentially* before it is transmitted to either house, so that it may be sent by express over the country with the greatest dispatch. Members, one day before its delivery to

occasions through the session. In doing this, I have had particular regard to the convenience of the legislature, to the economy of their time, to their relief from the embarrassment of *immediate answers* on subjects not yet fully before them, and to the benefits resulting to the public affairs. Trusting that a procedure founded on these motives will meet their approbation, I beg leave, through you, Sir, to communicate the enclosed message, with the documents accompanying it to the honourable the senate, and pray you to accept for you and them, the homage of my high respect and consideration.

TH. JEFFERSON.

*The hon. the President of the Senate.*

the house, engage a large number for distribution, which are all folded and ready for *franking* in the folding room, when the reading of the message has been finished by the clerk in the house. The members are not permitted to see the message till it is *read* in the houses of congress. The anxiety about the message throughout the country is very great. Friends and opponents both wish to see it, and therefore when read, some one of the members moves that — thousand copies of the message, with the accompanying documents, be printed for the use of the members. Usually *ten* thousand are printed. They are scattered into every corner of the United States by the members, which, by the way, is well calculated to give the people of the nation a pretty fair account of the views of the ruling party.

The speaker, after the reading of the message, presents the report of the secretary of the treasury “on the state of the treasury,” which is ordered to be printed, say ten thousand copies: it goes out with the president’s message. Being a great newspaper-reading people, a resolution is adopted by every congress, directing the clerk to furnish the members of the house, during the session, with such newspapers as they may direct; the expense not to exceed three daily newspapers. This enables a member to subscribe for all the papers that he may desire during the session. Many gentlemen prudently send *them* to their constituents, after they have read *them*, and thus perform the double service of enlightening themselves and their constituents.

The first week is generally consumed in preli-

minary business. The states and territories are not called over, therefore, for petitions till the second Monday in the session. During the first three or four days the following resolution is offered and adopted by the house. "Resolved, That the several standing committees be appointed according to the standing rules and orders of the house." There are 33 standing committees recognized under the rules of the house. The speaker, therefore, usually takes from Friday or Saturday of the first week till the Monday of the second week, to make out his committees at his chambers. The committees appear on the journals as the proceedings of the last day on which the house convened.

The speaker, during the few days antecedent to the appointment of his committees, and after the adoption of the resolution for their appointment, is busily engaged in inquiring of the old members returned with new ones, upon what committee he had best place their respective friends. In this way he makes himself tolerably familiar with the qualifications of gentlemen, and although he may make some mistakes, he in general obtains a pretty just knowledge of the young members. With the light he can collect in this way, he makes out his committees. The first named is considered chairman; the committee can, however, elect some other member of the committee, but this power is seldom, if ever, exercised.

It can readily be seen, that the speaker holds a powerful sway, so far as personal respect is concerned, over the house. And although the committees when once out of his hands, are beyond

his reach for the session, if not the congress, still there is a kind feeling of regard for the presiding officer who puts a gentleman at the head of a committee or as an associate of members on a distinguished committee of the house. In addition to the standing committees, he has daily some opportunity of appointing on select committees, or calling to the chair, besides a host of other civilities within the range of his influence, that never fails to put a member in a respectable light before his constituents—if not the nation.

By the constitution and rules of the house, the speaker presides over the deliberations of the chamber of representatives. His office is, therefore, one of high responsibility, embracing every thing connected with the dignity and despatch of the legislation of the country. To be an efficient officer, his voice should be clear and impressive; his eye excellent; his memory well stored with parliamentary and congressional authorities, and a ready tact in applying them to the questions that are incessantly starting up, in high political or geographical disputes.

The speaker's chair, in a house of 242 members, has been well said to be no "bed of down." It is lined with ten thousand thorns, and he who expects to execute its duties to the satisfaction of all parties, must be more than human. In this age, a copy by the way of nearly all that have preceded it, in human frailties, no man can reach, or expect to hold, the chair, unconnected with some of the party difficulties of the times, and the duties of the chair will more or less savour of those feel-

ings. A speaker should, however, keep his skirts clear of high party bias, if he expects to stand fair in his own conscience, or in the judgment of his peers.

There is much skill to be displayed in keeping the house in a good state of parliamentary discipline; and perhaps there is no greater error perpetrated by the chair, than a too frequent *calling to order*, or *knocking*, by the speaker, on his desk, to lessen the disorder of the house, while he only increases it. There is something in the tone and manner of an able speaker that will bring the house to order, when his *knockings* utterly fail. Sometimes he can keep the house in check by a glance of his eye, which will be generally successful, if the speaker would remember, that he is the presiding officer. Sometimes it will require his eye, his voice, and a decided manner, combined, to compose the agitated elements.

But a speaker, bearing in mind that he is elected to preside over the deliberations of the house, will not, while in the chair, permit himself to do any thing except the duties of the chair, and never lose sight of his office by occupying his time in reading or writing letters. For when he grows inattentive, he lets go the reins of the government of the house.

By a steady devotion to his duties, the speaker will often, with his eye, before any disorderly words are uttered, see that the member addressing him is rushing on towards an infringement of the rules, and thus be on his guard to instantly stop him in such an event. In this way he will be sure to hear what is said, and, if against order, say so,

and forthwith arrest any continuation of it. Presiding officers have often been known to give as an excuse for not interrupting personal remarks, that they did not hear them. They ought to have heard them. I think every one who has ever presided, or shall hereafter preside, will fully appreciate the propriety of these suggestions. If strictly adhered to, they will save much bad feeling, and perhaps the lives of men of high swelling passion. I have said that the duties of the chair are highly difficult and responsible,\* when sedulously execut-

\* The office of speaker of the house of commons is one of the most arduous kind ; the amount of labour he has to perform is almost incredible. Not only must he be always present during the sittings of the house, but he must at all hours of the day, and on all occasions during the session, be accessible to every member who chooses to wait on him. He must sign all the records of the votes and proceedings of the house, and of course carefully read them over, lest there should be any thing wrong in them before affixing his signature ; he must be always ready to instruct members as to matters of form ; in short, nearly all the business part of the house is transacted by him and his clerks. Not even Saturday, when no business, except on very urgent occasions, is done in the house, was formerly a day of recreation to him ; for every Saturday during the session, before the meeting of the present parliament, he was obliged to hold what are called Parliamentary Levees, and give splendid dinners to the members, to which they were invited, in certain numbers at a time, in rotation. His Saturdays are still in one way or other occupied with the duties of his office. It is doubtful even, with the labours of the week before him, whether the "Sabbath shines a day of rest to him," though of course he is protected on that hallowed day from the personal intrusion of honourable members on his retirement. His salary was formerly £5,000 a year, but in 1833 it was reduced to £4,000 ; in addition to his salary, however, he receives fees

ed. It is in part consideration of its responsibility, that the speaker receives double compensation, has a room, elegantly furnished, set apart in the capitol for his study, and in the event of the death of the president and vice-president of the United States and president of the senate, is designated by law to fill the chair of the executive. A man filling such a dignified station, with such high duties before him, should watch with the midnight lamp, and borrow its light to make himself worthy of his exalted position.

Usually on the second Monday of the session, the chaplain appears in the house, having been chosen on the preceding week, who makes a short prayer, a few minutes prior to the hour of meeting, after which the speaker takes the chair. The journals having been read, the speaker must, under the 16th rule, call for petitions from the members of each state, and delegates, beginning with Maine, and the territory of Wisconsin, alternately; and if on any day the whole of the states and territories shall not be called, the speaker shall begin on the next day, where he left off the pre-

to the amount of £2,000 or £3,000, besides £1,000 of equipment money, and 2,000 ounces of plate, which are given him immediately on his election; he is also allowed two hogsheads of claret wine, and £100 for stationary every year; add to all this the circumstance of his having a handsome residence provided for him close to the house of commons at the public expense, and the situation is worth at least £8,000 per annum. In point of rank the speaker is next to the peers of Great Britain, and he has the same precedence at the king's council table. The speaker never votes on any question except the numbers be equal, when his casting vote decides the majority.—*R. Recoll. H. of Commons.*



vious day: provided that, after the first 30 days of the session, petitions shall not be received, except on the first day of the meeting of the house in each week. The presiding officer announces, therefore, in compliance with the foregoing rule, "Petitions are in order from the state of Maine."

A member from Maine, having a petition, rises and says, "Mr. Speaker." Whereupon the speaker, casting his eye in the direction of the member, says, "The member from Maine." The member being now recognised, as in the eye of the speaker, says—"Mr. Speaker, I have been requested to present a memorial, signed by —, praying for an appropriation to build a light-house at Point Look-out, and I move that it be referred, without reading, to the committee of commerce." The speaker, without rising, says, "Referred."

It not unfrequently happens, that the member moves that it be printed; in this case, the speaker rises and puts the question on printing, as its printing is not a matter of course. Sometimes the reading of the memorial is called for, but in most instances it is referred without reading. The committee to whom it is referred generally have it printed, or such portions of it as are important, when they report thereon to the house.

Although the rule says that, for the first thirty days of the session, petitions are in order, and after that time, they are only in order on the first day of meeting in each week, yet it frequently happens that the house suspends the rule, and permits them to be presented more frequently than once a week, after the first thirty days have *elapsed*.

Petitions having been called for from the different states and territories, and being disposed of, the speaker says, in a clear, full voice, "Reports of committees are now in order." By the rules of last session, the order of calling over the committees is prescribed. Of course the speaker follows that order, and says, "Reports from the committee of elections." Pausing a moment, if no report is tendered, he says, "Committee of ways and means," and so on.

The standing committees having been called over, the speaker calls for reports from select committees. It sometimes happens that the speaker does not call over all the committees. In that event, on the next day, he resumes the call where he left off. After which, he says, "Resolutions are now in order,"—commencing with Maine, and which are disposed of by the same rules which apply to petitions; provided that no member shall offer more than one resolution, or one series of resolutions, all relating to the same subject, until all the states and territories have been called.

After an hour has been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion, that the house do now proceed to dispose of the business on the speaker's table, and to the orders of the day, which being decided in the affirmative, the speaker shall dispose of the business on his table. By this rule it is left to the discretion of the house, at any time after an hour has been expended upon reports and resolutions, to move that it proceed to the orders of the day. This is a very convenient rule at the

opening of the session, as it permits the house, if there is no very pressing business standing among the orders of the day, to progress with the reports and resolutions, till they are all disposed of. If the reports and resolutions have been all acted upon, or the orders of the day called and sustained, then the speaker is to dispose of the business on his table in the following order :

The business on the speaker's table comprises—

1st. Messages and other executive communications.

Every day breeds, if one may use the expression, its own business, and must be cleared off, or all regularity of proceeding will be destroyed. These messages usually refer to matters before the house, or submit some new subject of legislation to its consideration, and of course take a preference in being read, for the purpose of reference.

2d. Messages from the senate, and amendments proposed by the senate to bills of the house.

These also require prompt action. All communications from the senate, upon principles of courtesy, ought to be attended to, and in case of amendments to bills from the house of representatives, they should be immediately examined, and if they meet the approbation of the house, ought to be concurred in without delay, so that bills so far progressed in, may be finally passed by both houses.

3. Bills and resolutions from the senate, on their first and second reading, that they may be referred to committees, and put under way ; but if, on being read a second time, no motion be

made to commit, they are to be ordered to their third reading, unless objection be made, in which case, if not otherwise ordered by a majority of the house, they are to be laid on the table, in the general file of bills on the speaker's table, to be taken up in their turn.

Without this third rule, the senate bills might rest for days upon the speaker's table, unREFERRED. By its provision, every day a chance occurs for sending the bills in their proper direction from the table of the speaker. This rule is most excellent. It leaves it no longer either in the breast of the presiding officer or any member to delay its progress. Daily the speaker's table should be cleared of its bills.

4th. Engrossed bills, and bills from the senate on their third reading.

After bills of the house have been engrossed, or senate bills on a third reading, every facility should be afforded to bring them to the final action of the house. If the bills are not satisfactory to a majority, let them vote against them. But when they are ready to be acted upon, and particularly when they are on their third reading, every step should be taken to have them voted on immediately. It seems to be an act of great propriety to give such bills a preference.

5th. Bills of the house and from the senate, on the speaker's table, on their engrossment, or on being ordered to a third reading, to be taken up and considered in the order of time in which they passed to a second reading.

This is a very judicious regulation, giving to each bill its proper order, dating it according to the or-

der of time in which it had passed to a second reading. If there were no regulations of this kind, great difficulty would occur in taking up the bills that had gone to a third reading.

The messages, communications, and bills, on his table, having been disposed of, the speaker will proceed to "call the orders of the day."

If the speaker strictly adheres to these rules, he will be sure to carry on the business of the nation impartially and successfully, and establish a character for ability, punctuality and despatch. This point has been pressed upon the chair, under a firm conviction, that it is the only true mode of correctly passing or acting upon the whole business of the house. It gives all bills that are furthest advanced a sure chance of being acted upon. But if, after all these rules, so carefully prepared, to finish the business so far progressed in towards final completion, the house should adjourn with bills on a third reading, or amendments pending between the two houses, rely upon it, the speaker has not faithfully lived up to the rules, which direct him to dispose of all matters on the speaker's table, before he proceeds to the orders of the day. The speaker will, himself, find his duties much more readily executed, by adhering strictly to this order of proceeding. They are designed, especially, to leave no bills unacted upon, which have once reached a third reading, or are hanging between the two houses on amendments. He must, to be successful in the execution of these rules, commence with them at the opening of the session, and adhere to them throughout. No special *order can interfere* with the business on the speak-

er's table; a special order, for a particular day, only operates upon "the orders of the day." The business on the speaker's table is to be disposed of *before* the house proceeds to the orders of the day.

Having gone through the reports of committees and resolutions, it may be necessary here to take up a bill as reported by a committee to the house. The gentleman reporting a bill, says, standing in his place, "Mr. Speaker, I am directed by the committee of commerce to report a bill." As soon as the bill is carried to the chair, by one of the pages of the house, the speaker says, "The first reading of a bill." The clerk, standing in front of the speaker's desk, reads the title, which is considered the first reading of the bill. If no objections are made, the speaker, rising from his chair, puts the question, "Gentlemen, as many as are in favour of the second reading of the bill will say Aye. Contrary opinion, will say No. The ayes have it." He then takes his seat, and announces, "The second reading of a bill." The clerk again rises and reads the title; but if the reading of the bill should be called for, it will be read throughout; this is very seldom the case, as it is immediately printed, and laid on the tables of members, when they can examine it at their leisure. If the bill should, however, be of such a character as requires the immediate rejection of it by the house, the question of consideration can be called on it, which if decided against, it would be considered as rejected. Instances of this kind occasionally occur. During the session of 1829-30, Dec. 17, (page 62,) Mr. Overton moved the fol-

lowing resolution:—"That the committee on public lands be instructed to inquire into the expediency of ceding to the respective states, such public lands as may be unfit for cultivation, either from sterility or inundation, and that shall have been offered one year for sale." This resolution being read, Mr. Condict demanded that the question "Will the house now *consider* the same?" be put, and, being put, it was decided in the negative. If, however, as is customary, the bill shall pass through a second reading, the speaker is directed to say, "The bill is now ready for commitment or engrossment," but he usually casts his eye towards the member who reported the bill, who rises and moves, if it be a bill of a public nature, that it be committed to the committee of the whole, on the state of the Union, and if accompanied by a report, that the bill and report be printed. If, however, the bill is of a private character, he moves that it be committed to the committee of the whole house, that it be made the order of the day for to-morrow, and that the bill and report (if there be a report) be printed. The speaker states the question, sitting, as follows:—"It has been moved that the bill just read be committed to the committee of the whole on the state of the Union, and that the bill and report be printed." He then rises and puts it as follows:—"Gentlemen, as many of you as are in favour of the motion, will please say Aye. The contrary opinion will please to say No." Very few either vote for or against it, it being usually a matter of course to carry. The speaker, therefore, on the presumption that silence gives consent, says—

“The ayes have it. It is agreed to.” The other proposition is put, merely adding that it be made the order of the day for to-morrow, (which is a nominal date,) and that it be printed.

In referring to committees of the whole, on the state of the Union, no day is named, and this grows out of the fact, that with the exception of general appropriations, which have a preference, every bill referred to that committee may be taken up in committee of the whole on the state of the Union, when the house has resolved itself into that committee. Bills committed to committee of the whole house, take precedence according to their order on the general file of bills, which is accurately kept by the clerk of the house.

Having progressed so far as to have the bills referred, which, when printed and examined by the clerk, are placed on the members' tables, by persons employed for that purpose, and the file of bills being in order for consideration, the speaker, having disposed of the business on his table, on motion of a chairman of one of the standing committees, moves “that the house resolve itself into a committee of the whole on the state of the Union.” The speaker repeats the motion, and, rising, says, “Gentlemen, as many as are in favour of the motion, that the house do resolve itself into a committee of the whole on the state of the Union, will say Aye. The contrary opinion will please to say No.” If the ayes have it, he will say so, and announce that the motion is agreed to. Whereupon the speaker will invite some senior member of the house, if it be in the early part of



the session, to give the juniors an opportunity of seeing how the business is transacted. "Mr. ——— will please take the chair." The speaker rises and retires, and as the chairman ascends the steps, and the speaker descends, they bow respectfully to each other. The chairman, being seated in the speaker's chair, should say: "The house is now resolved into committee of the whole on the state of the Union." This is, however, usually omitted. As the chairman of the committee of ways and means made the motion for the house to go into committee, he rises and says "Mr. Chairman,"—when the chairman of the committee says, "The member from ———." This is done, so that the gentleman from ——— should know, and the committee, too, that he has the right to the floor. He then says—"Mr. Chairman, I move that the committee proceed to the consideration of the general appropriation bill, No. —," whereupon the chairman puts the question, rising for that purpose, and saying, "Gentlemen, as many as are in favour of the committee proceeding to the consideration of bill —, will please to say Aye. The contrary opinion will say No. The ayes have it." Or he may put the question in a short way. After stating it, he may say—"Will the committee proceed to consider the — bill?" which being agreed to, he, in a clear voice, says, "The clerk will read the bill by sections." The first section being read, the chairman then says:—"The first section is before the committee." Amendments are then to be offered. The committee proceeds through all the sections, when, if any member desire it, he may, before the commit-

tee rises, propose amendments to any or all of the sections that have been read and amended. The 118th rule of the house says, that the bill shall be first read throughout by the clerk; this is usually done when the bill is short; then again be read and debated by clauses. The letter of this rule is not adhered to, as some bills, say "Post-Office Routes," would take half a day to get through the mere reading; they are therefore considered by sections, at the first reading of the clerk. After the sections have all been debated upon in committee, the question is put on the preamble to the bill, if it should have one. Preambles, of late, are however not very common. The bill in question being amended, or if no amendments should be offered, after it had been read, the clerk, pausing slightly at the end of each section, the chairman will say, "No amendments being made, the bill will be laid aside to be reported," when, as is the practice, the chairman of the committee of ways and means moves some other bill, and in this way the committee and chairman progress, till they have acted upon as many bills as is desired by the chairman. He then rises and says: "Mr. Chairman, I move that the committee rise, and report the bills, with their amendments, to the house." This motion usually carries, when the speaker resumes his seat, and the chairman, descending to the floor of the house, says:—"Mr. Speaker, I have been directed by the committee of the whole upon the state of the Union, to report, that they, having had under consideration the state of the Union, and particularly bills —, (reading the titles,) have instructed me to report

the same, with sundry amendments," or the two first with, and the three last without, amendments. If, however, the committee should not come to any decision on any bill had under consideration, the chairman, instead of reporting "with or without amendments," as in the foregoing instance, would say they had instructed him to say "that the committee had come to no resolution thereon." This is the form of procedure in the case of the committee of the whole on the state of the Union.

When the house is resolved simply into committee of the whole house, and have risen, the chairman reports the bills, reciting the titles, with or without amendments, or in the event of not getting through the bills, he says, but having made some progress therein, he is directed so to report, and to ask leave to sit again. The speaker repeats the report of the chairman, and puts the question, "Shall the committee have leave to sit again?" Leave is usually granted to sit again.

*After* the report of bills, with or without amendments, from the committee of the whole, and committee of the whole upon the state of the Union, the proceedings are exactly alike. The speaker, on receiving the report of the chairman of the committee, says: "The chairman of the committee of the whole house," or "on the state of the Union," if that be the committee, "report that they have had under consideration the bill (reading the title) and directed him to report it with sundry amendments; and bill —, without amendments." The speaker then says, (as to the bill reported without amendments,) that the bill is still

open for amendments. If no amendment should be offered, he adds, "No amendments being offered, the question will be on ordering the bill to be engrossed, and read a third time," and rising, says, "Gentlemen, as many as are in favour of ordering the bill (naming it) to be engrossed and read a third time, will please to say Aye. The contrary opinion will please to say No." If the ayes carry it, he will say, "The ayes have it; the bill will be engrossed," which consists in copying it off in a fine round hand, free from all kinds of interlineations.

The bills reported to the house with amendments, are next taken up; when the speaker, handing the bill, with the amendments, to the clerk, says, "The clerk will read the amendments," which being done, he says, "The amendments are before the house;" for they are still subject to amendments, as well as the main body of the bill. If no proposition is made to amend, he says, "the question will be on concurring with the committee in their amendments," and rising, he puts the question in the usual form, on agreeing to the amendments being carried, he rises and says, "Gentlemen, as many as concur in the bill as amended will say Aye. The contrary opinion will say No;" which being carried, he puts the question on ordering the bill to be engrossed for a third reading, which, if carried, he asks, "When shall this bill have its third reading?" If it be early in the session, they usually say to-morrow, but if near the rising of congress, they say now. The speaker, if he finds a majority in favour of its being read that day, says, "It will be en-

grossed forthwith." If the bill is not a very long one, some one of its friends will have had it engrossed in readiness for its immediate reading ; or if not, in a short time it is prepared and handed to the speaker, who delivers it to the clerk, and announces "The third reading of an engrossed bill," when the clerk reads it through. The bill is now open to debate, but cannot be amended, except by unanimous consent, or by going again into a committee of the whole for amendments. This is occasionally done, but bills are usually perfected before the third reading. It sometimes, however, happens, with all the attention bestowed upon a bill, that it must be amended in the way here suggested, even after it is engrossed. The bill is engrossed on sheets, and it is therefore not so difficult to make amendments, as might at first be imagined. The bill, being now read the third time, the speaker says: "This bill originated in this house, and has now been read a third time, the question will be on its passage." And rising, says: "Gentlemen, as many as are of the opinion that this bill do pass, will say Aye. The contrary opinion will say No." If the majority of the voices seem to be in its favour, he will say "The ayes *appear* to have it," and pausing, if no one calls for a division, he says, "The ayes have it—the bill is passed." In congress, as in parliament, the question on the title is taken last, as it is no part of the bill. The speaker reads the title, and asks "Shall this be the title *of the bill*?" No one objecting, he says: "The title is agreed to." If, however, the bill should be one of great interest, the yeas and nays would be

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The bills reported to the house with amendments, are next taken up; when the speaker, handing the bill, with the amendments, to the clerk, says, "The clerk will read the amendments," which being done, he says, "The amendments are before the house;" for they are still subject to amendments, as well as the main body of the bill. If no proposition is made to amend, he says, "the question will be on concurring with the committee in their amendments," and rising, he puts the question in the usual form, on agreeing to the amendments being carried, he rises and says, "Gentlemen, as many as concur in the bill as amended will say Aye. The contrary opinion will say No;" which being carried, he puts the question on ordering the bill to be engrossed for a third reading, which, if carried, he asks, "When shall this bill have its third reading?" If it be early in the session, they usually say to-morrow, but if near the rising of congress, they say now. The speaker, if he finds a majority in favour of its being read that day, says, "It will be en-

grossed forthwith." "If the bill is not a very long one, some one of its friends will have had it engrossed in readiness for its immediate reading ; or if not, in a short time it is prepared and handed to the speaker, who delivers it to the clerk, and announces "The third reading of an engrossed bill," when the clerk reads it through. The bill is now open to debate, but cannot be amended, except by unanimous consent, or by going again into a committee of the whole for amendments. This is occasionally done, but bills are usually perfected before the third reading. It sometimes, however, happens, with all the attention bestowed upon a bill, that it must be amended in the way here suggested, even after it is engrossed. The bill is engrossed on sheets, and it is therefore not so difficult to make amendments, as might at first be imagined. The bill, being now read the third time, the speaker says: "This bill originated in this house, and has now been read a third time, the question will be on its passage." And rising, says: "Gentlemen, as many as are of the opinion that this bill do pass, will say Aye. The contrary opinion will say No." If the majority of the voices seem to be in its favour, he will say "The ayes *appear* to have it," and pausing, if no one calls for a division, he says, "The ayes have it—the bill is passed." In congress, as in parliament, the question on the title is taken last, as it is no part of the bill. The speaker reads the title, and asks "Shall this be the title *of the bill*?" No one objecting, he says: "The title is agreed to." If, however, the bill should be one of great interest, the yeas and nays would be

doubtless called, either on the engrossment or on the passage of the bill. This is done by some member rising in his place, and saying,—“Mr. Speaker, I ask the yeas and nays.” The speaker, rising, says, “The yeas and nays are demanded by the gentleman from ———. As many as second the call, will please rise;” when the speaker counts the number up, and reports to the house how many. If he finds the number equal to one-fifth of the members present, he says, “The yeas and nays are ordered.” The constitution grants to one-fifth the right of calling the yeas and nays. If, however, the members who do not rise in favour of the call, think there were not one-fifth of the members standing for the call, they request the speaker to count those voting in the negative, which he of course does, and if he finds himself in error, he corrects the mistake, and the yeas and nays are not ordered. It generally happens that the speaker’s count is correct, as he soon learns, even without counting, by the glance of his eye, whether there is a sufficient number up. If they are carried, the speaker says, “The yeas and nays are ordered.” The yeas and nays being ordered, the speaker directs the clerk to call the names of the members, which is done alphabetically. After he has called, and received an answer from, every one of the members, the call cannot be interrupted by any one. By the rules of the house, every member is bound to vote, unless excused, or unless he falls under the provision of the 28th Rule.

**Rule 28.** No member shall vote on any question in the event of which he is immediately and par-



but he was most important to the members as a *reading* clerk. His voice had little or no variety in it; yet he could read louder and longer and more rapidly without exhaustion, than any person I ever met with in my legislative experience. If Mr. Franklin had possessed no other qualification, that alone would have been sufficient to have retained him, under any variation of politics in the house.

Under the franking privilege the clerk can send and receive packages to the extent of three pounds. The speaker has the same right.

He daily prepares a list containing the order of business, which is every morning laid on the speaker's table. The journalizing clerk reads over to the speaker in his room, prior to the meeting of the house, the journal, to see whether he has correctly made up the business of the preceding day.

The clerk will find it very convenient to keep his list of orders, if the speaker will observe the rule for clearing off the speaker's table daily. This rule was established for that purpose, and ought not to be disregarded. So much depends upon the rule in question, that too much cannot be said to keep the speaker's eye steadily fixed on it. It is the only star to lead him successfully through the difficulties of a tedious and excited session.

I have thought that the State Legislatures do not pay a proper regard to the rules of congress in the transaction of their business. It has often suggested itself to me, that the rules of the State Legislatures should be as near a copy of the rules of congress as possible: so that when a mem-

been read by the clerk, whether "he was within the bar of the house at the time his name was called;" for if he were not, he is not entitled to vote. The votes having been registered and counted, the speaker rises and says: On agreeing to the passage of the bill, the yeas are 120, nays 116; the ayes have it. The bill is passed. The clerk certifies its passage by the house, and carries it to the senate. If the bill had not been ordered to be read on the day it was engrossed, but on the succeeding day, it would be placed on "*the speaker's table*," along with bills from the senate on the third reading, which is one more argument to show the propriety of clearing the speaker's table daily.

By this arrangement a bill will never get off the track—no shuffling can misplace it—it holds its position by the established rules of the house.

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#### CLERK.

The clerk of the house of representatives has a salary of three thousand dollars, and has large expenditures to make, independent of his other duties. The contingent fund of the house is under his supervision. His most important duties, however, are those connected with the parliamentary duties of the house. He keeps the journal, and therefore ought to be well acquainted with the mode of making entries. Indeed no one is fit for that station who is not deeply imbued with legislative knowledge.

Mr. Franklin was a good parliamentary clerk,

out resorting to the motion of reconsideration. This, however, seldom happens. A bill once fairly *laid on the table* by a respectable vote, has but little chance of coming to life again during the session. It is a kind of previous question device, as it precludes all debate; yet it has never had the opprobrium cast upon it that is attached to the previous question. It is, however, a very excellent motion in its place.

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#### PREVIOUS QUESTION.

The previous question is, of late, a strong feature in the legislation of congress, and is very frequently resorted to. Indeed, all prolonged debates are now brought to a close by sustaining the call. Originally it was intended to *prevent* debates upon delicate subjects, but now it is used to wind up a *tedious* debate.

It requires a majority to second the demand for the previous question. In olden times, five members could force the question. It is, however, an engine of power which has been abused by all parties; but during my experience I have seen all sides ready to use it. It has grown, I think, into more repute, from the increased size of the house. Discussion in an assembly of 242 members, calls for some means of foreclosure. Whether this is the best mode is a question by no means conceded. It was started by Sir Harry Vane, in 1604, and looks likely to continue, at least till some new device be substituted in its place. There is, however, one species of relief left to the opposers

ber is transferred, which is usually the case, from one of our State Legislatures to congress, he should find himself tolerably well acquainted with his duties on his arrival at the chamber of the house of representatives. It is with this view, in some measure, that this work is printed. It may be of some advantage to new members there, and possibly not injurious to some of the seniors. Be that as it may, it will be a kind of guide to all who may meet in any deliberative body, and will in some measure tend to qualify them for a seat in congress.

**Rule 34.** When a question is under debate, no motion shall be received but to adjourn, to lie on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged; and no motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided, shall be again allowed on the same day, and at the same stage of the bill or proposition. A motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered equivalent to its rejection.

This is a rule of frequent reference, and ought to be impressed upon the minds of members. "According to order, a motion to *lie on the table*, shall take the precedence of all motions *except adjournment*." A motion to lie on the table is one of the most usual modes of giving a proposition or bill its death blow. It is true, the subject may be taken up at another period in the session with-

out resorting to the motion of reconsideration. This, however, seldom happens. A bill once fairly *laid on the table* by a respectable vote, has but little chance of coming to life again during the session. It is a kind of previous question device, as it precludes all debate; yet it has never had the opprobrium cast upon it that is attached to the previous question. It is, however, a very excellent motion in its place.

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of the question, and that is, if the question is *capable of division*, a division may be had upon it. In the case of a resolution relative to appropriating a portion of the public lands for education, colonization and internal improvement, the question was taken *separately*, but *without debate*. If an amendment should be pending at the time, the previous question is ordered, the amendment is cut off, and the *main question* only put. The previous question is at times called to cut off an amendment as well as to terminate further argument on the proposition before the house.

To ascertain whether a majority has seconded the question, it is usual in all highly excited occasions, for the speaker to name, as tellers, two members, chosen one on each side of the question, to count and report the vote to the chair. If a majority seconds the call, or demand for the previous question, the speaker says: "The previous question having been demanded, and a majority of the house having sustained it, the question will be, "Shall the main question be now put?" And then puts the question "Shall the main question be now put?" Most frequently the yeas and nays are demanded on this question, and sustained. One-fifth of the members rising is sufficient, under the constitution, to sustain the call. The vote being taken by yeas and nays, it sometimes happens, that, from other members coming into the house, or a disinclination to offend a large number, or for some other cause, the question is lost. In this event the bill goes over to the next day, the failure of the vote being equivalent to a *postponement till the next day*. The question most com-

monly carries, when no further debate can place. There are but two motions that can precede ; one is, to adjourn, and the other is, to lay the bill on the table, and sometimes *reconsideration*. If however, no attempt should be made to embarrass the question, by any of the motions mentioned, then the vote on the main question being carried, and the speaker, having announced that the question on the main question has been carried, rises and says, the main question is now before the engrossing, or passing the bill, as the case may be, and then puts the question, "Gentlemen, many as are in favour of the passage of the bill will please to say Aye. The contrary opinion will please to say No." If the ayes have it, he will say so—if he doubts, he will say "The ayes are in favour of it," and, if no division is then called for, he says, "The ayes have it." It is usual, in strongly contested cases, to call the yeas and nays on the question; one-fifth being always necessary to demand them.

With reference to the previous question. The old practice used to be, after the previous question had been ordered, to make one motion, or attempt at delay, by moving a call of the house, which call having the preference over the previous question. This inconvenience being frequently complained of, the house, in the 38th rule, has declared, that *after* the previous question has been *seconded*, a call of the house should not be allowed.

The rule now under discussion, never gave the preference to a call of the house over the previous question; but the speaker some years ago declared, and the house sustained the decision, that it

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With reference to the previous question—The old practice used to be, after the previous question had been ordered, to make one more attempt at delay, by moving a call of the house; the call having the preference over the previous question. This inconvenience being frequently felt, the house, in the 38th rule, has declared, that *after* the previous question has been *seconded*, that a call of the house should not be allowed.

The rule now under discussion, never gave any preference to a call of the house over the previous question; but the speaker some years ago decided, and the house sustained the decision, that it was an

incidental question, connected with the organization of the house, that entitled it to be called *after* the previous question had been ordered. A call is now allowed *prior* to the majority having seconded the previous question. It may be proper here to remark, that all questions of order take precedence, and must be disposed of as they arrive. The house may adjourn over points of order, for time to consider, but the bill or proposition out of which it arises, ought also to be postponed with it. Sometimes it is found expedient *to lay a question of order upon the table*, and proceed with the subject out of which it grew. This is a high exercise of power, but it has been so long in use, that it is now established as the parliamentary law of this country. The true idea of order is, that the incident cannot be separated from the main question; but putting it on the table is equivalent, in the eyes of most members, to an indefinite postponement of it, and in that light they consider that they have decided the point of order, in as tender a manner as could well be devised. For, deciding that they will not consider it at *the only time* when it can have any effect upon the question, is in fact disposing of it *absolutely*.

“*To postpone to a day certain*,” takes the precedence of a motion “to postpone indefinitely.” In motions to postpone to a day certain, they frequently make it so late in the session, as absolutely to destroy the bill, which after all is very near akin to a motion “to postpone indefinitely.”

“To commit or to amend,” precedes the “indefinite postponement,” because, by commitment it may be so amended, as to preclude the ne-

cessity of an indefinite postponement. Indefinite postponement is last in the order of privileged motions in the 34th rule. The concluding paragraph is worthy of notice: "A motion to strike out the enacting words of a bill, shall have precedence of a motion to amend, and if carried shall be considered as equivalent to its rejection." Hatsell says you may amend first. I am not, however, sure, that it is not just as convenient, because a member may state, in case they do not strike out the enacting words of a bill, that he will offer amendments, which he can suggest by way of argument, before the question of striking out is taken.

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#### RECONSIDERATION.

**Rule 44.** When a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof, on the same or the succeeding day; and such motion shall take precedence of all other questions, except a motion to adjourn.

This motion, it will be seen, for nearly two days takes precedence of all motions, except adjournment. When I first entered congress, it was so nice a matter to know when you might be permitted by the chair to *reconsider*, that it was deemed expedient to give it the preference it now enjoys. Voting for a measure, merely to get the chance of reconsidering, is not within the meaning of the rule. They sometimes make the motion, and then postpone it. There is but one way, if it is intended for delay, to avoid the difficulty, and

that is, to call the previous question, and decide it at once. It seems an unjust exposition of the rule, to hang a bill up for a week, because an opponent votes for it, that he may have another thrust at it upon *reconsideration*. Perhaps, under all the circumstances, the previous question is justly applicable to such a motion.

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#### COMMITTEES.

The speaker appoints all committees, **except** such as are chosen by ballot. He names a **majority** usually of his own side, unless on unimportant committees. The first-named member is the chairman, of course, unless otherwise directed by the committee. It is in their power, it is true, to select their own chairman, but a majority being appointed, of the same caste with the first-named, he can always be elected, if he desire it.

Standing committees, unconnected with political questions, are, after all, much better than what are called select committees. They are usually selected on account of their kind feeling towards the object referred to them. A standing committee looks at a subject with an investigating eye; they need not be for a subject, nor against it; but in that just position that enables them fairly to examine it. I know it is said that gentlemen, friendly to a subject, should be appointed on it. If that was the invariable rule, committees would be utterly useless, as they would always

report favourably, and no one would have any faith in their reports.

In the house of representatives of the United States, a report of a standing committee is properly estimated by the members generally. Chosen as they are, at the opening of the session, they have no bias on their minds for or against many of the measures committed to them. With the exception of political questions, I should rely with great confidence on the report of a standing committee. They keep regular minutes of their proceedings, record all their reports, and look back, for a series of years, for authorities, in making up their judgments upon any case ; whereas a select committee is chosen for the particular occasion, and generally entrusts the report to the gentleman who presents the petition referred to them, and who is at the head of the select committee.

From the necessity of the case, congress must have great faith in its standing committees. The members cannot examine minutely and individually for themselves, every thing that may come before them ; they therefore leave much, and I think with great propriety, to standing committees. Even new members have the old committee book of reports to guide them, and the experience of old members on the committees to refer them to what has been said and done before, on many subjects that yearly come before them.

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#### CALL OF THE HOUSE.

Upon the call of the house, the name of the members are called over by the clerk ; those who

are present answer to their names and the absentees are noted, after which, the names of the absentees are again called over, when such as may have entered the house since the first call, can answer to their names. The speaker then orders the doors to be closed, and those for whom no excuse or insufficient excuses are made, may, by the order of those present, (if amounting to fifteen in number,) be taken into custody, as they appear, by the sergeant-at-arms, or may be *sent for*, and taken into custody wherever to be found, by special messengers appointed for that purpose.

A call of the house is very frequently commenced, and the proceedings afterwards suspended, when most if not all of the members are found to be in the house, on the call of absentees. It is one of the modes resorted to by the respective parties, to fill the house before a decision is had on any question of great interest. The call, however, is sometimes made to retain a quorum at the close of the session, and particularly at night. In instances of that kind, the members remaining in the house, frequently carry out the rules to the fullest extent, and compel members who have retired, to repair to the house, where they hear their excuses, and discharge some upon payment of fees, and others without, as their excuses may warrant. The fees of the sergeant-at-arms are, for every arrest, two dollars; for each day's custody, and releasement, one dollar; and for traveling expenses for himself, or a special messenger, going and returning, one-tenth of a dollar per mile.

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speaker shall vote: in other cases he shall not vote, unless the house be equally divided, or unless his vote, if given to the minority, will make the division equal; and in case of such equal division, the question shall be lost.

The speaker, by this rule, never votes on a bill or any proposition that requires a vote, *viva voce*, unless his vote will either pass or prevent the passage of the proposition before the house. Some think it a great hardship that the speaker should only be allowed to vote once or twice during the session. I am however inclined to think the presiding officer is well satisfied with the rule; it keeps him from unnecessarily coming in collision, upon every question, with the feelings of the respective parties in the house, while it gives him a vote *whenever* it is important that an individual should have a vote, and that is, when his vote will certainly tell. During even a long session, the speaker will not be called upon to give his casting vote more than two or three times at most. I recollect two speakers, at different times, giving their vote to second the previous question.

I have said elsewhere that the speaker is elected for the whole congress. In the early history of our congressional proceedings, I think, Mr. Muhlenberg was elected for only a single session.\* The

\* "April 20, 1798. The speaker of the house of representatives being indisposed, the house elected the Hon. George Dent, speaker, pro tempore.

May 28, 1798. A message from the house was received by the senate, informing that body that the Hon. George Dent had been chosen speaker, pro tempore, and that he had *signed* an enrolled bill, which the clerk of the house was de-

practice is however so well settled, that I apprehend it will never be changed, because it is always in the power of the house to displace their speaker, if they think proper. He is to the house what a chairman is to a committee, and may be changed at pleasure. Indeed, it is a matter of importance that this subject should be understood, as it gives to the presiding officer and members a just notion of their relative rights. While on this subject, it may not be improper to suggest a word upon the re-organizing of the committees at the second session. It is my opinion, that the committees are as certainly chosen for the whole congress, as the speaker. The speaker holds the chair on the principle of its being a second session of the *same* congress—an *adjournment*, if you please; and why ought not the committees to stand unchanged upon the same principle? The fifteenth rule would seem to settle the question.

**Rule 15.** After six days from the commencement of a second or subsequent session of any congress, *all bills, resolutions, and reports*, which originated in the house, (reported by committees) and at the close of the next preceding session, remained *undetermined*, shall be *resumed* and *acted* upon in the same manner as if an *adjournment* had not taken place.

If the *reports* are to stand the same as if an adjournment had not taken place, so must the *committees*.

sired to bring to the senate, for the signature of the vice-president." This is the only instance I have met with in my examination of the journals, in which a speaker, pro tempore, of the house signed a bill.

**FRANKING.**

The franking privilege of members extends to two ounces. Documents printed by the order of congress, of any weight, can be sent by mail under their frank. The letters of members are received by one of the messengers from the post-office of the city of Washington, who carries them to the postmaster of the house, and he sorts and sends them to the lodgings of members.

**COMMITTEE ROOMS.**

The committees have separate rooms, and fixed days for meeting, in the capitol; an attendant sees that the room is well and properly warmed, and the clerk sends all the petitions and resolutions referred, to the respective committee's room, and enters them on the committee-book kept for that purpose, prior to their meeting.

Messengers pass every half-hour from the house to the post-office, or to some of the departments, or to the bank. Horses are kept for that purpose, despatch always being an important matter in this intercommunication.

**PRIORITY OF BUSINESS.**

*Rule 96.* All questions relating to the priority of business to be acted on, shall be decided without debate.

This rule is applied to the taking up of business; and no man is permitted to shew, that it is important to take up his bill; for if a debate could be permitted upon the propriety of proceeding to the consideration of a bill, the whole time of the house would be expended, in arguing for

or against *considering* a bill, instead of *acting upon* it. A bill must therefore, from its character, have weight enough to secure the action of the house; no argument can be listened to in the house, to shew why it ought to be *considered*.

DISTRICT OF COLUMBIA COMMITTEE.

**Rule 68.** It shall be the duty of the committee for the District of Columbia, to take into consideration all such petitions and matters or things touching the said district, as shall be presented, or shall come in question, and be referred to them by the house; and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient.

The inhabitants of the District of Columbia, having no representative or delegate in congress, have a committee of the house appointed to attend to their interests, and usually two days are assigned for the consideration of their business. Exclusive legislation being vested in congress over this district, it is entitled to a full share of their attention. There is a faint impression afloat, that congress is not quite satisfied with the people of the place. My experience, however, for at least twelve years, satisfies me, that although occasionally some of the members are not well pleased with the city and some of its citizens, yet the main body of congress is thoroughly satisfied, both with the inhabitants and Washington, and think that the capital could not be located much more conveniently in any other portion of the United States, with the exception perhaps of some of the large cities. Washington, however,

is advancing in every species of refinement, and will shortly be one of the most interesting cities of the Union.

#### PUBLIC GROUNDS.

*Rule 82.* It shall be the duty of the committee on public buildings and grounds, to consider all subjects relating to the public edifices and grounds within the city of Washington, which may be referred to them, and report their opinion thereon, together with such propositions relating thereto as may seem to them expedient.

The people of the district of Columbia, as well as the nation at large, are greatly indebted to the committee on public grounds, for all that they have done, and still desire to do, in improving the walks around the capitol. They have lately recommended the purchase of an elegant selection of rare plants, in the possession of one of the best florists in the country, to be transferred to the public grounds. With that addition, the lawn around the capitol will be one of the most beautiful places in the republic. The people of this country wish to see the capitol at Washington adorned in a style worthy of the illustrious patriot who gave his name to the city and his fame to the world.

#### MILEAGE.

*Rule 85.* It shall be the duty of the committee on mileage to ascertain and report to the sergeant-at-arms, the distance for which each member shall receive pay.

*The mileage of members is frequently agitated*

in congress, but I know of no more accurate mode of settling the subject, than under the provisions of the present law. Some complain about the mileage of distant members and delegates. But it should be borne in mind, that those gentlemen cannot conveniently return home during the session. Some, on account of the distance, bring their families with them, at great expense to Washington ; while gentlemen in the neighbourhood of congress, frequently return to their homes. One thing no one who has been a member can question, and that is, that no man can get rich by congress pay and mileage. Take, for instance, the case of a man residing in the extreme north, which is tolerably distant ; his pay will not, one session with another, equal that of the door-keeper of the house, or a chief clerk in one of the departments. Now out of his \$2000, for he can get no more, he has to pay \$12 or 14 per week, and maintain a family at home ; and if he be a professional man, and should have the misfortune to be in congress for eight or ten years, he will have lost the benefits of his profession ; so that at the end of his term, he is not only out of congress, but out of his profession. I am well satisfied that no member of congress saves any money, either in pay or mileage ; and that eastern members ought to be content with western mileage, particularly if they do not want the capitol rolled with the widening wave to the west.

#### APPROPRIATION BILLS.

*Rule 62.* General appropriation bills shall be in order in preference to any other bills of a pub-

lic nature, unless otherwise ordered by a majority of the house.

**Rule 63.** No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorised by law.

These rules are generally adhered to; but amendments are often made in the senate to appropriation bills, inconsistent with it, which have sometimes to be concurred in, especially towards the close of the session, when the rule occasionally yields to save the bill.

#### COMMITTEE OF THE WHOLE.

**Rule 106.** It shall be a standing order of the day, throughout the session, for the house to resolve itself into committee of the whole house on the state of the Union.

**Rule 112.** No motion or proposition for a tax or charge upon the people shall be discussed the day in which it is made or offered; and every such proposition shall receive its first discussion in a committee of the whole house.

**Rule 113.** No sum or quantum of tax or duty voted by a committee of the whole house, shall be increased in the house until the motion or proposition for such increase shall be first discussed and voted in a committee of the whole house; and so in respect to the time of its continuance.

**Rule 114.** All proceedings touching appropriations of money shall be first discussed in a committee of the whole house.

**Rule 115.** The rules of proceedings in the house shall be observed in a committee of the

whole house, so far as they may be applicable, except the rule limiting the time of speaking; but no member shall speak twice to any question until every member choosing to speak shall have spoken.

The committee of the whole on the state of the Union is a committee of very extensive powers. It is in this committee that the consideration of great national subjects are discussed. The president's message, of late, has been largely debated in this committee: perhaps disadvantageously for the despatch of business.

#### LOCAL OR PRIVATE BUSINESS.

Friday and Saturday in every week shall be set apart for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the house.



## CONFERENCES.

Having gone through the most important steps connected with the organization and mode of transacting the business of the House of Representatives, I here present under the head of Conferences, some of the most important decisions to be found in our journals, from our earliest congressional history up to the present time. They embrace a mass of cases that cannot fail to be highly interesting to every gentleman who desires to be familiar with the congressional practice of our country.

## On the Apportionment Bill, of 1792.

A conference was requested and granted, and Mr. Madison, one of the managers on the part of the house, reported, That they had, according to order, attended to that duty, and that, after offering the reasons for disagreement on the part of the house, and hearing those that were offered by the managers on the part of the senate in answer thereto, the several propositions offered by the managers on the part of the house for accommodating the said disagreement not being acceded to, by the managers on the part of the senate, they had *mutually determined to separate* from the said conference, *without any agreement*.

The house afterwards reconsidered its disagreement to the amendments of the senate, and the bill became a law.

May 5th, 1800.

Mr. Gallatin, from the *joint committee of conference*, appointed on the subject of the amendments depending between the two houses, to the bill providing for the sale of the lands of the United States, in the territory north-west of the Ohio, and above the mouth of the Kentucky river, made a *report*, which was read and considered: whereupon

*Resolved*, That this house do so far recede from their disagreement to the *amendments insisted on* by the senate, to said bill, as to agree to the same *with amendments*.

A message was received from the senate, by their secretary, stating that they had agreed to the amendments proposed on the part of the house, to the amendments of the senate to the preceding bill.

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Saturday, May 5th, 1792.

Mr. Madison, from the managers appointed on the part of the house, to attend a conference with the senate on the subject-matter of the amendments, depending between the two houses, to the bill sent from the senate, entitled "An act for regulating process, &c." reported that the managers had met the managers on the part of the senate, in the *conference chambers*, and fully discussed the subject referred to them, and had agreed that it would be proper, on the part of the house, to *recede* from the fourth amendment to the third section, but that, as to *all the other amendments*, the managers of the two houses *had not come to any agreement*. The house *adhered* to their other amendments, upon the report of the

committee of conference, and the senate *receded* from their disagreement; so the bill became a law. This extract is made to show that the conference may agree upon a *portion* of the amendments, and leave the balance for the further action of the respective houses.

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February 28, 1799.

Mr. Harper, from the joint committee of conference, on the part of the house, made report, which was read and considered.

*Resolved*, That this house do *recede in part* from their second amendment to the bill sent from the senate, entitled "An act for the better organization of the troops of the United States," and do agree to the said *second* amendment and modification thereof.

March 2d, 1799.

A message was received from the senate agreeing to the amendment and modification to the above mentioned bill. Whereupon the house proceeded to consider the amendment as proposed by the senate, and resolved that they *unanimously* disagree to said amendment.

March 3d, 1799.

The senate postponed said bill *until the next session of congress*.

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April 26th, 1810.

A motion was made by Mr. Rhea, of Tennessee, that the house do *adhere* to their disagreement to an amendment to the *act regulating the post office department*, and passed in the *negative*, and then the house resolved to *recede* from their disagreement to said amendment.

**This is introduced to show, that although the house refused to *adhere*, still it was necessary to move in a separate resolution to *recede*.**

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July 30th, 1813.

Mr. Bibb, from the joint committee of conference, appointed by the house to confer with the conferees on the part of the senate, upon the subject matter of the disagreeing votes of the two houses, upon the amendments depending to the bill entitled, "An act laying duties on notes of banks, bankers, and certain companies; on bonds, notes, and obligations, discounted by banks, bankers, and certain companies, and on bills of exchange of certain descriptions," made report, which was read and ordered to lie on the table. A message from the senate, by Mr. Otis, their secretary. "Mr. Speaker,—The senate have considered the report of the joint committee of conference upon the subject matter of the amendment, depending between the two houses, to the bill entitled 'An act laying duties on notes of banks, bankers, and certain companies; on bonds, notes and obligations discounted by banks, bankers, and certain companies, and on bills of exchange of a certain description,' and have *disagreed to the same, so far as respects their amendment proposed in the 4th line of the second section*, and have insisted (after conference) upon their said amendment; they have agreed to the *residue of said report*, (of the committee of conference) and have accordingly *receded from the other amendments*." The house proceeded to consider the said message, and the *report of the conferees* being again read, whereupon—

*Resolved*, That this house do *recede* from their disagreement to the *amendment insisted upon* by the senate, and that they do agree to the *residue of the report of said conferees*.

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Dec. 26, 1814.

The house proceeded to consider the report of the conferees, on the disagreeing votes of the two houses, on the bill from the senate, to authorize the president to call upon the several states and territories thereof for their respective quotas of 80, 000 militia, &c. The said report was read, and the recommendations contained therein were as follows, viz.

1. That in lieu of the amendment proposed by the house of representatives, to strike out the words "two years," and insert "one year," and in the 4th line of the first section, the words "18 months" be inserted, and that the same modification be made where the words "two years" occur in other parts of the bill.

2. That the house of representatives *recede* from their amendment, proposed to be inserted at the end of the 4th line of the 1st section after the word "discharged."

3. That the senate recede from their disagreement to the amendment, which proposes to strike out the seventh section.

4. That the house of representatives agree to the modification, proposed by the senate, to their amendment in the 9th section.

The question was taken to concur with the committee of conference, on their first recommendation. Lost. Yeas 64, nays 72. On concurring in the second recommendation, yeas 69, nays 80.

The question was taken on the fourth recommendation, and passed in the affirmative.

*Resolved*, That the house *insist* on their disagreement to the 1st and 2d recommendations of the committee of conference, and ask a *further* conference on the subject matter of said disagreement. Ordered, that Mr. Troup, Mr. Stockton, and Mr. Dexter be the managers at the said *further conference*. Ordered, that the secretary acquaint the senate therewith.

The senate postponed the further consideration of the aforesaid bill, till the 2d of March next.

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January 22, 1815.

A message from the senate, by Mr. Cutts, their secretary—

Mr. Speaker: The senate have adopted the modification proposed by the committee of conference, on the disagreeing votes of the two houses, on the amendments depending to the bill “to authorize the president of the United States to accept the services of volunteers, who may associate and organize themselves, and offer their services to the government of the United States,” with an amendment.

The said report of the committee of conference was then read, whereupon

*Resolved*, That this house do agree to the report of the committee of conference aforesaid, *with the amendments made by the senate*. Ordered that the clerk do acquaint the senate therewith.

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RECEDING. January 2, 1834.

Mr. Franklin, the clerk of the house, informed the senate that the house had passed a bill making

## PRECEDENTS OF ORDER.

It is in order to reconsider a vote of adherence of the house, to their disagreement to an amendment proposed by the senate, and after reconsideration, to add a new proviso; decided, Sept. 11, 1786. Printed journal, page 136, 137.

On an appeal from the decision of the chair, the vote being equal, the speaker gave the *casting* vote, which *sustained* the chair. Page 122, 124. May 31, 1790. Wednesday, April 14, 1802. Dec. 28, 1802.

*Second Session. 2d Cong. Vol. 4. p. 260. 1802.*

A letter from the secretary of war was partly read. A motion to dispense with the reading the balance of the letter was decided to be out of order, and sustained on an appeal—yeas 62, nays 16.

The house decided, that when a question by yeas and nays has been put by the speaker, and the clerk has proceeded to the *call*, in consequence of which a vote has been given by any one of the members, and at the same time a member rises in his place to address the chair, it precludes further debate on the said question. Yeas 99, Nays 10. Jan. 5, 1809.

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It was proposed, June 27, 1809, to add to a resolution "that the election held in Plymouth district, in November last, was legal and proper," the words "*but not conclusive*." The speaker decided it to be out of order, it being a *substitute* for a resolution under consideration; and that agreeably to the standing rules and orders of the

posed on the *secret proceedings* in the house, cannot be taken off with *open doors*. This decision was appealed from, but sustained by a vote of 76 yeas to 38 nays.

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Feb. 5, 1811. Mr. Speaker decided that the vote taken yesterday on the question "Will the house concur with the committee of the whole on the state of the Union, in the adoption of the resolution?" being a question directly on the merits of the proposed amendment, (of the constitution) and less than *two-thirds* of the house voting in favour of it, he considered the resolution as *negatived*. From this decision an appeal was made by Mr. Randolph, and being seconded, the question was taken on the decision of the chair, and it was decided to be correct. Yeas 61, nays 59. So the proposition to amend the constitution of the United States was rejected.

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Feb. 27, 1811. On motion of Mr. Ringgold, the previous question was demanded by five members, (the number under an old rule,) whereupon the previous question was taken in the form prescribed, to wit: "Shall the main question be now put?" on the passage of the bill, and resolved in the affirmative. Mr. Randolph then moved to adjourn. Negatived. The main question then recurred, when Mr. Randolph moved again to adjourn. Negatived. After which, the main question was taken, that the bill do pass. Yeas 64, nays 12.

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February 20, 1812.

An engrossed bill was read the third time, and



lic nature, unless otherwise ordered by a majority of the house.

**Rule 63.** No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorised by law.

These rules are generally adhered to; but amendments are often made in the senate to appropriation bills, inconsistent with it, which have sometimes to be concurred in, especially towards the close of the session, when the rule occasionally yields to save the bill.

#### COMMITTEE OF THE WHOLE.

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**Rule 114.** All proceedings touching appropriations of money shall be first discussed in a committee of the whole house.

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**whole house, so far as they may be applicable, except the rule limiting the time of speaking; but no member shall speak twice to any question until every member choosing to speak shall have spoken.**

**The committee of the whole on the state of the Union is a committee of very extensive powers. It is in this committee that the consideration of great national subjects are discussed. The president's message, of late, has been largely debated in this committee: perhaps disadvantageously for the despatch of business.**

#### **LOCAL OR PRIVATE BUSINESS.**

**Friday and Saturday in every week shall be set apart for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the house.**

The speaker decided that Mr. Randolph was bound to state his proposition, which, moreover, ought to be seconded, announced from the chair, and reduced to writing, if required, before he proceeded to debate it.

From which decision of the speaker, Mr. Randolph appealed to the house.

And the question was taken, "Is the decision of the chair correct?"

And passed in the affirmative.

Mr. Randolph then submitted his proposition.

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#### REJECTION OF A BILL.

Feb. 9th, 1813. A bill from the senate "to increase the salaries of certain district judges," was read the *first* time, when opposition being made to the said bill by Mr. Harper, the question was taken, "Shall this bill be rejected?" and passed in the affirmative; ordered, that the clerk do acquaint the senate therewith.

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All resolutions requesting information from the president, were formerly presented by a committee of members to the president.

June 23d, 1813. Mr. Webster and Mr. Rhea were a committee to wait on President Madison. The present mode of presentation is perhaps most agreeable to both parties.

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July 7th, 1813.

*The bill to lay and collect a direct tax within the United States was under consideration;*

And several amendments being made to the same, and others under consideration,

The previous question was called for by Mr. Gholson, and being demanded by a majority of the members present,

It was taken in the form prescribed by the rules of the house, to wit: "Shall the main question be now put?"

And passed in the affirmative, yeas 83, nays 78.

A motion was then made by Mr. Pitkin, further to *amend the said bill*: which

The speaker decided to be out of order, as the house had determined that the *main question* should be put, which main question the speaker declared to be, "Shall the bill be engrossed and read the third time?" and which puts aside the amendments which had been proposed, and precluded further amendment.

From which decision of the speaker, Mr. Pitkin appealed to the house,

And the question was taken, "Is the decision of the chair *correct*?"

And passed in the affirmative, yeas 98, nays 68.

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March 21, 1814.

The order of the day for the house to resolve itself into a committee of the whole on the bill to alter and establish post routes, was called for:

And the speaker being in the act of putting the question on the said call,

Another member asked for the consideration of another order of the day, which latter call was declared by the speaker (Mr. Cheves) to be out of order.

From which decision of the speaker an appeal was taken to the house.

And on the question, "Is the decision of the speaker correct?" It passed in the affirmative.

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April 2, 1814.

The following resolution was submitted for consideration by Mr. Grundy:

**Resolved,** That a committee be appointed to inquire into the expediency of establishing a national bank.

The house proceeded to consider the said resolution: when, a question of order was raised by Mr. Wright, whether the same was in order, as a bill, having apparently the same object, had been referred to a committee of the whole house, and had not been acted upon.

The speaker decided that the said resolution was in order.

From which decision of the speaker, an appeal was taken to the house:

And on the question, "Is the decision of the speaker correct?" it passed in the affirmative.

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April 5th, 1814.

The house resolved itself into a committee of the whole house, on the bill for the relief of persons who, by mistake, made wrong entries on the public lands, and after some time spent therein, the speaker resumed the chair, and Mr. Stanford reported, that the committee had had the said bill under consideration, and made an amendment thereto, by striking out the first section of the *same*; upon which the speaker decided, that the *report of the committee* of the whole was not in

order, because the amendment struck out the whole bill.

A motion was then made by Mr. Taylor, that the said bill be postponed indefinitely.

The speaker should have suggested to the chairman, the modification of his report. He might have said, instead of an amendment, "I am directed to report the first and only section negatived,"—and then the question, to be proposed by the speaker, would be, "Will the house concur in the report of the committee of the whole?" which, if concurred in, he would say, "The bill is rejected or negatived." By the way, *to strike out*, is an amendment, and perhaps the report was not so very irregular. It was a bill in blank. It still had its title, for the title can never be touched in committee of the whole. It might be filled in various ways. The house, if it should have refused to concur, would have reinstated the section. It was so much amended, that all its offensive features, in the eyes of a majority, had been stricken out. The proper report would have been, "the first and only section negatived," whether that was an amendment or not, was an immaterial point.

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December 27, 1814.

The bill to incorporate the Bank of the United States of America was under consideration.

A motion was made by Mr. Hale to amend the same: on which, the previous question was called for, and demanded by a majority: whereupon,

It was taken, to wit: "Shall the main question be now put?"

*And passed in the affirmative, yeas 72, nays 70.*

A motion was then made that the said bill be ordered to lie on the table.

The speaker decided that this motion was not in order, as the previous question had been demanded, taken, and decided in the affirmative.

From this decision of the speaker, Mr. Gaston appealed to the house.

And on the question, "Is the speaker's decision correct?"

It passed in the affirmative: yeas 108, nays 36.

An inquiry was then made as to what question was before the house.

The speaker decided, that the question for the decision of the house was the *main question*, to wit: "Shall the amendments be engrossed, and the bill read the third time?"

From this decision of the speaker, Mr. Gaston again appealed, contending that the question was on the motion of Mr. Haile to amend.

The speaker's decision was again affirmed by the house: yeas 91, nays 52.

December 29, 1814.

The same bill under consideration.

After many propositions to amend, the previous question was called for, and demanded by a majority; upon which it was taken, and decided in the affirmative.

The main question was then taken, that the amendments to the bill be engrossed, and the bill read the third time,

And passed in the affirmative.

The said amendments being engrossed, the clerk was about to proceed to read the said bill *the third time*: when,

An inquiry was made by Mr. Bigelow, whether this bill had precedence of the other orders of the day; and whether it was not necessary to dispose of the said orders of the day previous to the reading of this bill?

The speaker decided that it was not necessary to dispose of the other orders of the day; that the bill, being an engrossed bill, had precedence of any other order of the day.

From this decision Mr. Bigelow appealed to the house; When,

The speaker's decision was affirmed.

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*Fourteenth Congress, 2d session, 1816.*

A bill was under consideration, and a motion was made to amend the same, when a member called for the reading of the bill: which being objected to, the speaker declared that at that stage of its progress it was not competent for one member to demand the reading of the bill without the order of the house. Mr. Basset appealed. The speaker's decision was affirmed.

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*Twelfth Congress, 1st session. Vol. 8, p. 193.*

An engrossed bill was read the third time, and the question was stated "that the bill do pass;" a debate arising thereon, the previous question was called for and decided in the negative, in consequence of which the speaker (Clay,) declared that the bill was postponed until the next day. Acquiesced in by the house.



*Seventeenth Congress, 1st. session, 1822.*

The yeas and nays having been ordered on an amendment to a bill pending before the house, and the speaker having put the question by saying that "those who are in favour of the amendments would, when their names were called, answer aye," &c. ; but no member having answered, Mr. Mallory rose to discuss the amendments, when the speaker declared that in this stage of the business debate was inadmissible. On appeal by Mr. Edwards of N. C. the decision was reversed.

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**PRESIDENTIAL TITLE.**

Friday, April 24, 1789. The speaker laid before the house a letter from the vice-president of the United States, enclosing a resolution of the senate for the appointment of a committee on their part, "to consider and report what style or titles it will be proper to annex to the office of the president and vice-president of the United States, *if any other than those given in the constitution?*"—Whereupon, Messrs. Benson, Ames, Madison, Carroll, and Sherman, were appointed a committee for that purpose, on the part of the house.

Tuesday, May 5, 1789. Mr. Benson, from the committee, made a report, which being then read, was agreed to as followeth:—"That it is not proper to annex any style or titles to the respective style and titles expressed in the constitution."

Monday, May 11, 1789. A motion was made that the house do agree to the following:—"Resolved, that this house having, on Tuesday last,

adopted the report of their committee, appointed to confer with a committee of the senate, stating that it is not proper to annex any style or titles to the respective style and titles expressed in the constitution, and having, in their address to the president of the United States, on Friday last, proceeded to act pursuant thereto, deem it improper to accede to the proposition made by the senate.

Saturday, May 9, 1789. A message was received from the senate, by their secretary, informing the house, that the senate had disagreed to the report of a committee, appointed to consider and report what style or titles it will be proper to annex to the office of president and vice-president; and had appointed a committee to consider and report, under what title it will be proper for the *president* of the United States in future to be addressed, and to confer thereon with such committee as this house may appoint for that purpose.

May 14, 1789. The committee appointed on the 9th instant, to determine "under what title it will be proper for the senate to address the president," and to confer with a committee of the house of representatives "upon the disagreeing votes of the senate and house," informed the senate, that they had conferred with a committee of the house of representatives, but *could not* agree upon a report.

The committee appointed on the 9th inst., "to consider a report under what title it would be proper for the senate to address the President of the United States of America," reported, that in the opinion of the committee, it will be proper

thus to address the president : *His Highness the President of the United States of America, and protector of their liberties* ; which report was postponed, and the following resolution agreed to, to wit :

“ From a decent respect for the opinion and practice of civilized nations, whether under monarchical or republican forms of government, whose custom is to annex titles of respectability to the office of their chief magistrate, and that, on intercourse with foreign nations, a due respect for the majesty of the people of the United States may not be hazarded by any appearance of singularity, the senate have been induced to be of opinion, that it would be proper to annex a respectable title to the office of president of the United States; but the senate, desirous of preserving harmony with the house of representatives, where the practice lately observed, in presenting an address to the president, was without the addition of titles, think it proper, *for the present*, to act in conformity with the practice of the house,—therefore, resolved :

That the *present address* be “ To the President of the United States,” without addition of title. A motion was made to *strike out* the preamble as far as the words “ but the senate”—which passed in the negative.

#### INAUGURATION.

On the 30th day of April, 1789, the day appointed for the formal reception of the president, (General Washington,) Mr. Lee, on the behalf of the *committee* appointed to take order for conducting

the ceremonial of the formal reception, &c. of the president of the United States, having informed the senate that the same was adjusted, the house of representatives were notified that the senate were ready to receive them in the senate chamber, to attend the president of the United States while taking the oath required by the constitution. Whereupon the house of representatives, preceded by their speaker, came into the senate chamber, and took the seats assigned them; and the joint committee, preceded by their chairman, agreeably to order, introduced the president of the United States into the senate chamber, where he was received by the vice-president, who conducted him to the chair: when the vice-president informed him that “the senate and house of representatives of the United States were ready to attend him to take the oath required by the constitution, and that it would be administered by the chancellor of the state of New York.” To which the president replied, he was ready to proceed; and being attended to the gallery in front of the senate chamber by the vice-president and senators, the speaker and representatives, and the other public characters present, the oath was administered; after which the chancellor proclaimed—“Long live George Washington, president of the United States.”

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The yeas and nays having been ordered on an amendment to a bill pending before the house, and the speaker having put the question by saying that "those who are in favour of the amendments would, when their names were called, answer aye," &c. ; but no member having answered, Mr. Mallory rose to discuss the amendments, when the speaker declared that in this stage of the business debate was inadmissible. On appeal by Mr. Edwards of N. C. the decision was reversed.

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adopted the report of their committee, appointed to confer with a committee of the senate, stating that it is not proper to annex any style or titles to the respective style and titles expressed in the constitution, and having, in their address to the president of the United States, on Friday last, proceeded to act pursuant thereto, deem it improper to accede to the proposition made by the senate.

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That the *present address* be “ To the President of the United States,” without addition of title. A motion was made to *strike out* the preamble as far as the words “ but the senate ”—which passed in the negative.

#### INAUGURATION.

On the 30th day of April, 1789, the day appointed for the formal reception of the president, (General Washington,) Mr. Lee, on the behalf of the *committee appointed* to take order for conducting

the ceremonial of the formal reception, &c. of the president of the United States, having informed the senate that the same was adjusted, the house of representatives were notified that the senate were ready to receive them in the senate chamber, to attend the president of the United States while taking the oath required by the constitution. Whereupon the house of representatives, preceded by their speaker, came into the senate chamber, and took the seats assigned them; and the joint committee, preceded by their chairman, agreeably to order, introduced the president of the United States into the senate chamber, where he was received by the vice-president, who conducted him to the chair: when the vice-president informed him that "the senate and house of representatives of the United States were ready to attend him to take the oath required by the constitution, and that it would be administered by the chancellor of the state of New York." To which the president replied, he was ready to proceed; and being attended to the gallery in front of the senate chamber by the vice-president and senators, the speaker and representatives, and the other public characters present, the oath was administered; after which the chancellor proclaimed—"Long live George Washington, president of the United States."



## PRECEDENTS OF ORDER.

*First Session, Nineteenth Congress.*

On Mr. Metcalf's Panama Resolution, Jan. 31, 1826. The resolution of Mr. Metcalf, yesterday, calling on the president for information on the subject of the congress of Panama, being again read as follows: "*Resolved*, That the president of the United States be requested to communicate to this house such information, documents, or correspondence, touching the invitation to be represented at the congress of Panama, which has been received by this government, from the governments of Mexico, Central America, and Columbia, as may be communicated without detriment to the public interest."

Mr. Forsyth put the question to the chair, whether the resolution of Mr. Metcalf was in order, inasmuch as the same subject was now before the house, by a resolution of Mr. Hamilton, of South Carolina, laid on the table, on the 16th December, as follows :

*Resolved*, That the President of the United States be requested to transmit to this house, copies of all such documents, or parts of correspondence, (not incompatible with the public interest to be communicated,) relating to an invitation which has been extended to the government of this country "by the republics of Columbia, of Mexico, and of Central America, to join in the deliberations of a congress to be held at the isthmus of Panama," and which has induced him to

signify to this house, that "Ministers on the part of the United States will be commissioned to join in those deliberations."

The speaker decided it was not in order to entertain Mr. Metcalf's resolution, inasmuch as the subject-matter thereof was already before the house, in the resolution of Mr. Hamilton.

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#### WITHDRAWAL OF PROPOSITIONS.

The house proceeded to consider the preceding resolution of Mr. Hamilton, whereupon Mr. H. modified his resolution, by striking therefrom—"not incompatible with the public interest to be communicated."

On motion of Mr. Webster, said resolution was amended by restoring said words stricken out by the modification.

After further debate on the resolution, Mr. Hamilton rose and said "I withdraw the resolution."

The speaker decided that it was not in the power of Mr. H. to do so, it having been amended by a vote of the house; and no proposition could be withdrawn after amendment.

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#### REFERENCE TO PROCEEDINGS IN SENATE.

On the discussion of the above resolution, Mr. Mitchell, of Tennessee, adverted to the measures now under consideration in the senate.

The speaker decided that it was not in order to reflect upon the proceedings of the other branch of the legislature.

**MODIFICATION AFTER AMENDMENT.**

Mr. McDuffie offered an amendment to the said resolution of Mr. Hamilton. Mr. H. accepted the amendment as a modification. Mr. Powell inquired if it was in order to accept any modification after amendment—alluding to the amendment on motion of Mr. Webster.

The speaker decided in the affirmative, inasmuch as the amendment proposed to be accepted by Mr. Hamilton, did not affect the amendment previously inserted by the house.

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**STRIKING OUT AMENDMENT.**

Mr. Stevenson, of Pennsylvania, proposed an amendment to strike out the words inserted, on motion of Mr. Webster, in Mr. Hamilton's resolution, and to add to the concluding words of the resolution these words—"making so much of this communication confidential as he may think proper."

Mr. Webster inquired if Mr. Stevenson's motion was in order.

Mr. Speaker decided that so much of the motion as went to strike out was not in order, these words having been inserted by a vote of the house; but that part of the motion to add certain words was in order. From which decision of the speaker, on the first part of Mr. Stevenson's motion, Mr. Forsyth appealed.

Whereupon, the decision of the speaker was affirmed by the house.

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Substitute, pending a motion to amend particular part.

Mr. Rives proposed to the said resolution of Mr. Hamilton's an amendment, viz. "and the powers proposed to be given to the commissioners or ministers of the United States to that congress, and the objects to which they are to be directed." Mr. Hamilton accepted it as a modification.

Mr. Wright moved to strike out those words so accepted as a modification. Pending this motion, Mr. Webster offered a substitute for the whole resolution, to come in after the word "resolved."

Mr. Speaker decided that Mr. Webster's motion was not in order while the motion of Mr. Wright was pending.

Mr. Wright withdrew his amendment, and Mr. Webster's amendment was offered and agreed to.

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#### ORDERS OF THE DAY.

*Feb. 9, 1826.*

The following rule having been adopted by the house, viz.

"That Fridays and Saturdays in every week be set apart for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the house."

A question was submitted to the chair, whether private bills could be called up on *other* days than those named in said rule. Mr. speaker decided that the rule gave private bills a preference on Fridays and Saturdays, but they did not lose their place on the general docket, and might be considered on other days.

*To lie one day—Rule 44.*

Changing proposition to instruct committee into a call on the executive.

Mr. Wickliffe, on Saturday the 25th of March, 1826, submitted the following resolution :

Resolved, That the committee on foreign relations be instructed to inquire and report to this house, upon what authority, if any, the minister of the United States to the Mexican Republic, in his official character, declared to the plenipotentiary of that government, that “the United States have pledged themselves not to permit any other power (than Spain) to interfere either with their (the South American republics) independence or form of government; and that in the event of such an attempt being made by the powers of Europe, we (the United States) would be compelled to take the most efficient and active part, and to bear the brunt of the contest.”

This was debated until the house passed to the orders of the day.

On Monday the 27th, after long discussion, the resolution was *changed* by a vote of the house to read as follows :

Resolved, That the president of the United States be requested to transmit to this house a copy of such parts of the answer of the secretary of state to Mr. Poinsett's letter to Mr. Clay, dated Mexico, 28th September, 1825, and numbered 22, as relates to a supposed pledge of the United States; and also to inform this house whether the *United States* have in any manner, made any *pledge to the government* of Mexico and South

America, that the United States would not permit the interference of any foreign power with the independence or form of government of those nations; and if so, when? in what manner? and to what extent? and also to communicate to this house a copy of the communication from our minister at Mexico, in which he informed the government of the United States that the Mexican government called upon this government to fulfil the memorable pledge of the president of the United States in his message to congress of December 1825."

When the speaker was about to put the question "will the house agree to the resolution as amended," Mr. Forsyth inquired whether the resolution as amended should not lie on the table *one day*, under the 44th rule of the house?

Mr. Speaker decided it to be *not necessary*, inasmuch as the subject involved in the call had been under consideration one day. From which decision Mr. Forsyth appealed: and on the question "shall the decision of the chair stand as the judgment of the house?" it passed in the affirmative, ayes 112, nays 41.

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#### VOTES GIVEN OUTSIDE THE BAR.

*April 12, 1826.*

On the passage of the bill for the relief of the Florida Indians, the yeas and nays having been called and announced,

Mr. Bartlett requested liberty to have his vote *recorded in the affirmative, having heard* his name

called, but not having been able to *reach his seat* in time to answer.

Mr. speaker inquired if he was *within the bar* when his name was called. He answered, No. The speaker decided the gentleman could not vote.

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#### RECONSIDERING ORDER FOR YEAS AND NAYS.

*April 21st, 1826.*

It was ordered yesterday that the motion to lay on the table the resolution declaring the expediency of sending ministers to the congress at Panama be taken by yeas and nays.

Mr. Vance on this day moved to reconsider that order.

Mr. Forsyth objected to the power of the house to reconsider its decision in the case.

The speaker decided, that it was competent for a majority to reconsider the order, but that the question would immediately recur, "Shall the motion to lay on the table be taken by yeas and nays"—that it must be so taken, if desired by one fifth of the members present.

The motion to reconsider prevailed.

The yeas and nays were then demanded by one fifth of the members present.

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*February 6, 1827.*

During the discussion of the "bill for the alteration of the acts imposing duties on imports," Mr. Woods, Mr. Hamilton, and several other members, rose in their places to address the chair. Mr. *Hamilton claimed the floor*. The speaker decided

that Mr. Woods was entitled to it. Mr. Hamilton inquired if he had a right to appeal. The speaker said he had. Mr. Hamilton then appealed from the decision of the chair; which was affirmed by the house, ayes 98, noes 54.

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Same day. Mr. Woods, of Ohio, called for the previous question. When the speaker put the question to ascertain whether the call was seconded by a majority of the house, Mr. Forsyth demanded that the question be taken by ayes and noes. The speaker decided that the motion of Mr. Forsyth was not in order; from which Mr. Forsyth appealed, but subsequently withdrew his appeal, and the decision of the chair was acquiesced in by the house.

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Feb. 7, 1827. The "bill for the alteration of the acts imposing duties on imports," was reported to the house. In the 2d section, "All manufactured wool now chargeable with a duty of thirty per cent. ad valorem, shall, from and after the first day of June, 1828, be charged with a duty of 35 per cent.; and from and after the 1st day of June, 1829, 40 per cent."—Mr. Ashley moved to strike out 1st June 1828 and insert 1st August 1827, and strike out 1st June 1829, and insert 1st August 1828.

The speaker decided the motion not to be in order, as it went to increase a duty at an earlier period than had been proposed, and voted in committee of the whole. From this decision Mr. Hoffman appealed; and on the question "shall



the decision of the chair stand as the judgment of the house? it was decided in the affirmative.

Feb. 8, 1827. The question on engrossment of the "bill for the alteration of the acts imposing duties on imports," being under discussion, Mr. Hoffman moved to recommit the bill with certain instructions. Mr. Wright called for the previous question: which call was seconded by a majority of the members present. Mr. Hamilton moved there be now a call of the house. The speaker decided that the motion was not in order. From this decision Mr. Hamilton appealed; and on the question, Shall the decision of the chair stand as the judgment of the house? it was decided in the affirmative by ayes and noes—ayes 113, noes 90.

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March 3d, 1827.

Mr. Mercer, from the select committee to which had been referred the memorial of the Colonization Society, made a report, the reading of which was dispensed with by a vote of the house, and it was laid on the table. A motion was made that the said report be printed, whereupon, Mr. Hamilton demanded the reading of the report; which being objected to, the speaker decided that the question *on reading* must be determined by a vote of the house, Mr. Hamilton insisting he had a right to have the report read, appealed from the decision of the chair; and the question having been put, "Shall the decision of the chair stand as the judgment of the house?" after debate thereon, Mr. Hamilton withdrew the appeal, and the house acquiesced in the decision of the chair.

## AMENDMENT AS A SUBSTITUTE.

Mr. Mallory, from the committee on manufactures, reported the following resolution :

*Resolved*, That the committee on manufactures be vested with power and authority to send for persons and papers.

After debate thereon,

Mr. Stewart offered as an amendment, to strike out all after *Resolved*, and insert the following—  
“that it is expedient to amend the present tariff, by increasing the duties on the following importations, 1st. raw wool and woollens, 2d. bar iron, &c. &c.

The speaker decided that the amendment was not in order, inasmuch as the proposition was upon a subject different from that under consideration, and consequently inadmissible, under colour of amendment, by the rules and practice of the house.

Whereupon the house acquiesced in the decision of the chair.

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## LATITUDE IN DEBATE.

January 28th, 1828.

Mr. Chilton's resolution being under discussion, Mr. Vance was addressing the house on the subject, when Mr. McDuffie called him to order, because he was going into an inquiry in relation to the organization of some of the standing committees of the house, which he considered as wholly inapplicable to the subject under discussion.

*The speaker decided that at this stage of the*

debate, he did not consider the remarks of the member from Ohio as clearly out of order, and that, under the circumstances, he should permit him to proceed.

Mr. McDuffie appealed, and the house adjourned.

29th. The question was put, "Shall the decision of the chair stand as the judgment of the house?" and passed in the affirmative—yeas 91, nays 62.

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#### TWO RESOLUTIONS ON THE SAME SUBJECT.

Feb. 28, 1828.

Mr. Gilmer's resolution under discussion—

*Resolved*, That the committee on military affairs be instructed to inquire into the expediency of so regulating, by law, the number of cadets to be educated at the West Point Military Academy, as to make that number correspond as nearly as may be, with the vacancies which may occur in the army of the United States."

Mr. Taylor moved to amend the said resolution, by striking out all after the word "expediency," and inserting in lieu thereof the following words, "of reducing the number of cadets at the Military Academy at West Point."

After further discussion,

Mr. Wickliffe inquired whether the resolution of Mr. Gilmer was in order, inasmuch as a resolution of the same import had been laid on the table by Mr. Chilton in the following words, viz.

*Resolved*, That the committee on military affairs be instructed to inquire into the expediency of

passing a law “for the gradual and annual reduction of the number of cadets admitted into and educated at the Military Academy at West point.

The speaker decided that these propositions were not so closely analagous, as to render the present resolution out of order; and the house acquiesced in the decision.

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### CONSTRUCTION OF RULE 43.

March 3, 1828.

The hour for the consideration of morning business having expired, the speaker announced the orders of the day, the first of which was the unfinished business of yesterday, to wit: the question on the amendments to the “bill making appropriations for internal improvements.” Whereupon Mr. Mallory moved that the house now resolve itself into a committee of the whole house on the state of the union.

Mr. Martin rose to a point of order, to wit: whether the above motion could be entertained in contravention as he supposed of the 43d rule of the house, without two-thirds of the house agreeing to suspend that rule.

The speaker decided the motion to be in order, inasmuch as the rule which required *two-thirds* to suspend was only applicable to such rules as were *unqualified* on their face. The 43d rule alluded to, contained an express limitation, which enabled a majority of the house to suspend its operation—the motion was consequently in order. The decision of the chair was acquiesced in by the house.

April 9, 1828.

Increase in amount of duty, or at an earlier period than proposed in committee.

Tariff bill under discussion. Mr. Mallory had accepted, as a modification of his motion to amend said bill, the motion of Mr. Buchanan as follows: "instead of the present duty of  $33\frac{1}{3}$  per cent. ad valorem, a duty of 40 per cent. ad valorem, until the 30th day of June 1829, and after that time a duty of 5 per cent. per annum, in addition, until the whole amount of duty shall be 50 per cent. ad valorem.

Mr. Bates of Massachusetts moved to amend said amendment by striking out 40 per cent., and inserting 45 per cent. The speaker inquired whether this motion had been made in committee of the whole.

Mr. Bates answered that it had not been made in that precise form, but that an equivalent increase of duty had ~~been~~ moved in a different form.

Mr. Storrs, also stated, that Mr. Mallory had in committee of the whole, moved an amendment equivalent in amount.

The speaker inquired whether the subjects on which the duty would operate were precisely the same as those proposed to be affected by the amendment of Mr. Bates; for if not the same, a proposition to increase could not be made without first going into committee of the whole on the state of the Union.

From this decision Mr. Storrs appealed, but *subsequently withdrew his appeal; and the house acquiesced in the decision of the chair.*

Whereupon Mr. Condict moved to strike out the "1829" and insert "1828," making the increase of duty begin one year sooner.

The speaker decided that this motion was equivalent to a motion to *increase*, and could not be entertained without first going into committee.

In this decision the house also acquiesced.

April 10th, 1828.

*Motion to recommit, with instructions. Tariff bill under discussion.*

Mr. Davis, of Massachusetts, moved to recommit the bill to the committee of the whole on the state of the Union, "to consider and report only upon the expediency of amending the same," &c. Whereupon Mr. Hoffman rose to a point of order, and inquired if it were competent for the house to instruct the committee of the whole what amendments they should report.

The speaker decided that it was competent for the house so to instruct the committee. Here the motion was "to inquire ~~into~~ the expediency of making certain specific ~~amendments~~," which the chair pronounced to be perfectly in order. This decision was acquiesced in by the house.

Mr. Gorham then inquired whether, if the bill were recommitted, it would be in order to confine the committee of the whole, as proposed by the motion.

The speaker said that the committee, if not instructed, would have the whole bill before them open to amendment; but the house might restrain them by instructions to the consideration of a *single section, or a single point* in the bill.

*In this decision the house also acquiesced.*

April 11th, 1828.

*Division of Question. The Tariff bill under consideration.*

The speaker stated to the house, that when this subject was yesterday under consideration, the chair decided, at the moment, that upon a motion to amend, by striking out certain paragraphs and inserting others, it was competent to demand a division of the question, upon those parts proposed to be inserted, if they comprehended points so distinct and entire, that the one being taken away, the other might stand entire for the decision of the house. Since the adjournment yesterday, the chair had on reflection changed the opinion at first expressed, and now seized the earliest moment to correct the error into which it had been hastily drawn. He was now satisfied that the decision he made yesterday was wrong, and he deemed it his duty to state it frankly to the house.

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Second motion to recommit on the same day, and at the same stage of the proceedings, not in order.

A motion had been made to recommit the bill on the subject of the tariff. After debate, an inquiry was made, if it was in order again to move a recommitment. The speaker decided it was not in order in the same stage of the bill.

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Motion to prohibit credit on importations must *be made in committee of the whole house before proposed as amendment.*

The tariff bill being under discussion, a motion was made by Mr. Wright, of Ohio, further to amend the said bill, by adding to the end of the sixth paragraph of the amendment agreed to yesterday, on motion of Mr. Sutherland, the following :

“And after the first day of January, 1829, no credit for duties shall be allowed at the Custom Houses, on any manufactures of wool, or of which wool shall be a component material, imported into the United States, belonging to any foreigner.”

Mr. Martin objected to the said motion being entertained by the house, on the ground that the same had not been heretofore offered in the committee of the whole house on the state of the Union.

The speaker decided that the motion was in order, and could now be made ; from which decision Mr. Cambreleng appealed ; and on the question, “Shall the decision of the chair stand as the judgment of the house ?” it was decided in the negative, yeas 85, nays 113. Page 533.

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A motion was made by Mr. Wright, of Ohio, to amend said bill, by inserting the following as section 3d.

That from and after the first day of January, 1829, no credit for duties shall be allowed on any manufactures of wool, belonging to any foreign manufacturer, and that the duty on all such manufactures shall be paid at the time when the same shall be entered, deducting therefrom such discount as may be allowed under the 27th section of the collection law, passed March 1, 1823.



Mr. Storrs moved to amend said amendment, by inserting, after the word "manufacturer," the words "or merchant," which motion the speaker decided not to be in order, according to the recent preceding decision of the house; which was acquiesced in.

April 12, 1828.

Motion to strike out what had been previously inserted as an amendment, and insert other words in lieu, not in order.

Mr. Woods, of Ohio, moved, as an amendment, to strike out the 2d, 3d, 4th, 5th, and sixth paragraphs of Mr. Mallory's amendment, as amended on motion of Mr. Sutherland, and to insert the amendment offered by Mr. Buchanan on the 9th instant to the amendment by Mr. Mallory, as originally proposed, and which was accepted by Mr. Mallory as a modification.

This motion the speaker decided not in order.

From which decision Mr. Woods appealed.

And on the question "Shall the decision of the chair stand as the judgment of the house?" it was decided in the affirmative.

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May 2, 1828.

Motion for reconsideration of a vote of the previous day must be made within the hour allotted for morning business.

The hour for morning business having elapsed, Mr. Martin moved a reconsideration of the vote of the preceding day, by which the house refused to agree to an amendment of the senate to the bill making appropriations for the Indian department. *The speaker decided the motion was not*

now in order, the hour for the morning business having expired; from which decision Mr. Carson appealed, but subsequently withdrew his appeal: and the house acquiesced in the decision of the chair.

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#### RESCINDING RULES.

May 3, 1828.

A motion to change the hour to which the house shall, daily, stand adjourned, being under consideration, Mr. McDuffie moved to amend the motion by striking out all from the word "resolved," and inserting "that it shall not be in order to move an adjournment before 5 o'clock, P. M. during the present session of congress."

This motion the speaker decided not to be in order, inasmuch as the effect of the amendment would be, if adopted, to rescind a standing rule of the house; which could not be done without one day's previous notice. This decision was acquiesced in by the house.

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May 6, 1828.

*Receding from disagreement to Senate's amendment, not equivalent to agreement.*

The senate returned the "bill making appropriations for the Indian department for the year 1828," and insisted on their amendment to the bill which had been disagreed to by the house. Whereupon the house receded from their disagreement to said amendment; and then the speaker decided that the question would recur upon agreeing

to the said amendment of the senate, the fact of receding not being equivalent to an agreement: in which decision the house acquiesced.

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*A rejection of the previous question removes the consideration of the subject until the next sitting of the house.*

The "bill authorizing a subscription to the stock of the Chesapeake and Ohio Canal Company" being under discussion, the previous question was demanded, and put, to wit: "shall the main question be now put?" and was decided in the negative. Whereupon the speaker announced that by the decision against putting the main question, the further consideration of the bill was removed from before the house for that day, and consequently was postponed until the next sitting.

Whereupon the house acquiesced in the decision, and Mr. Mercer moved a reconsideration of the vote, which was agreed to.

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May 8, 1828.

If there be a section of a bill containing an appropriation which has not been read in committee for consideration, that part cannot be considered in the house.

The bill from the senate "for the relief of certain surviving officers and soldiers of the Revolution" having been under consideration the previous day in committee of the whole on the state of the Union, and the bill having been read through, first for information, and then taken up by sections, several amendments had been proposed to

the first section, and that section only had been read and discussed. The committee had risen without going through the bill; and this day a motion was made to discharge a committee of the whole house on the state of the Union from the consideration of said bill. On inquiry as to the effect of said motion on the sections which were not considered in committee, the speaker decided that, if the facts were as stated, and the third section contained a clause of appropriation which had not been discussed or considered in committee, the discharge of the committee of the whole would prevent the consideration of that part of the bill in committee, and consequently it could not be acted on when brought into the house. Whereupon the motion to discharge was withdrawn.

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May 22, 1828.

Mr. Everett reported a joint resolution relative to the paintings in the rotunda, which was read the first time; and Mr. Everett moved that the resolution be now read the second time.

And the question being put, a majority, but not two-thirds of the members present, voted in the affirmative.

And thereupon the speaker decided, that inasmuch as by the 44th rule of the house, it is declared that every order, resolution, or vote, to which the concurrence of the senate shall be necessary, shall be read in the house, and laid on the table on a day preceding that in which the same shall be moved, unless the house shall expressly allow; and by the 104th rule it is provided "*that the order of business as established*

by the rules of the house shall not be postponed or changed except by a vote of at least two-thirds of the members present;" it required two-thirds of the members present to sustain the motion for the second reading of the resolution, and as that number had not voted for the motion that the resolution be now read a second time, the question was not carried, and the resolution would, consequently, be laid on the table one day.

From this decision Mr. Taylor appealed to the house.

And on the question "shall the decision of the speaker stand as the judgment of the house?" it passed in the affirmative.

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### *Second session of the Twentieth Congress.*

The bill to repeal the tonnage duties upon ships and vessels of the United States and upon certain foreign vessels, was under consideration.

A question upon that bill having been put and decided by yeas and nays, Mr. Nuckolls rose and desired to vote on the question just decided, having been *without the bar* when his name was called twice by the clerk.

The speaker decided, that according to the rules of the house, he was not entitled to vote on the question.

Mr. Nuckolls appealed from the decision of the chair.

Debate arose on the appeal; which debate was set aside by the previous question.

*And the question was put, "Shall the decision of the chair stand?"*

And decided in the affirmative—yeas 168, nays 8.

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Feb. 27, 1829.

Mr. Hamilton from the committee on retrenchment, made a report, which was read, and debate arising thereon,

Mr. Bartlett inquired of the chair whether a report of the committee on the library which was under consideration yesterday, and unfinished at the expiration of the hour allotted for morning business did not take precedence in the order of business for this day of any report made this morning.

The speaker decided that it did not take precedence of reports made this morning.

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Feb. 28, 1829.

The bill to compensate Susan Decatur, widow and representative of captain Stephen Decatur, deceased, and others, was under consideration,

And after debate, the previous question was called for and demanded by a majority of the members. The previous question was then put, viz. "Shall the main question be now put?" and the yeas and nays having been called, and the members on each side of the question being communicated by the clerk to the speaker,

The speaker announced to the house that there were yeas 79, nays 81.

At this stage of the proceeding, and before the speaker had pronounced the decision of the question to the house, Mr. Alexander announced his wish to change his vote from the negative to the affirmative side of the question. The speaker

decided that Mr. Alexander had a right to change his vote; and Mr. Alexander's vote being changed, the question stood yeas 80, nays 80. And an equal division of the house being thereby produced, ~~the~~ speaker voted with the yeas, and pronounced the vote on the previous question to be passed in the affirmative. And thereupon Mr. Sutherland made a question of order whether the speaker possessed the power to permit a member to change his vote after the number of votes on each side of the question had been announced from the chair.

The speaker decided that it was the right of a member to change his vote at any stage of the proceeding before the decision of the house thereon should have been finally and conclusively pronounced from the chair.

From this decision Mr. Basset appealed to the house—when the speaker's decision was affirmed: yeas 122, nays 49.

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March 3, 1829.

A report of the committee on the library was under consideration; and after further debate thereon, the hour allotted by the rule for the consideration of morning business expired, and the discussion was suspended.

Mr. Allen of Massachusetts then moved a resolution for a vote of thanks to the speaker.

The resolution being read, a question of order was raised whether it could be received and acted upon without a motion having been made and the question thereon carried in the affirmative, to suspend the 17th rule of the house, which is as follows:

“The petitions having been presented and disposed of, reports, first from standing and then from select committees, shall be called for and disposed of. And not more than one hour in each day shall be devoted to the subject of reports from committees and resolutions; after which the speaker shall dispose of all bills, messages and communications on the table, and then proceed to call the orders of the day.”

The speaker (Mr. P. P. Barbour in the chair, acting in the room of Mr. speaker Stevenson, who was absent,) decided that according to the usual practice in cases of resolutions of similar character and import, it was competent in the house to receive and entertain the resolution, and the resolution was accordingly received.

From this decision Mr. Brent appealed to the house.

And upon the question the speaker's decision was sustained : yeas 95, nays 41.

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DIVISION OF A QUESTION—WHEN AND HOW IT  
MAY BE MADE.

January 18, 1830.

Mr. Hunt's resolution being under discussion, in the following words, viz.

Resolved, That a select committee be appointed to inquire into the expediency of appropriating the nett annual proceeds of the sales of the public lands among the several States and Territories, for the purposes of education and internal improvement, in proportion to the representation of each in the house of representatives, and that



the said committee have leave to report by bill or otherwise.

After debate and several motions made, the previous question, to wit, "Shall the main question be now put?" was put and carried in the affirmative, by yeas 127, nays 59. Before the main question was put, Mr. Hammons called for a division, so that the first member of the resolution so divided, should stop at the word "territories," and the speaker decided that the resolution was susceptible of such division.

From this decision Mr. Barringer appealed; and on the question "Shall the decision of the chair stand as the judgment of the house?" being put, it passed in the affirmative.

*On divisions of questions, first being agreed to, the second member may be laid on the table or amended.* March 1, 1830.

A motion having been made to commit a memorial to the committee of the whole house on the state of the Union, and to print it, Mr. Sterigere called for a division of the question; and the question on commitment having been agreed to, Mr. S. moved to lay that part of the motion relative to printing on the table; which motion was lost. Thereupon Mr. Bell moved to amend the last member of said motion by adding thereto the following words: "and all other memorials on the subject." Whereupon Mr. Bates inquired if that motion was order. Mr. speaker decided it to be in order, and cited Jefferson's Manual, 118.

***Motion to strike out "enacting words" of a bill is paramount to a question on concurring in amendments.***

The bill for the relief of Susan Decatur and others, was reported from the committee of the whole, with sundry amendments.

Mr. Tucker moved to strike out the enacting words of the bill.

The speaker said it was paramount to the question of concurring: cited the 32d rule, showing this motion to have precedence of a motion to amend; of course the question of concurring is subject to the same rule.

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What is the "main question" where the committee of the whole house reports an amendment to strike out the enacting words of a bill?

The committee of the whole house reported "a bill to remit to G. & W. Bangs certain duties," &c., so amended as to strike out the enacting words. The question was stated, "Will the house concur with the committee in their amendment?" Whereupon the previous question was called for and demanded.

Mr. speaker decided the "main question" to be "Shall the bill be engrossed for a third reading?" which being decided in the negative, the said bill was rejected.

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RIGHT TO THE FLOOR.

May 20, 1830.

The bill reducing the duty on salt being under consideration, and a motion having been made to commit the bill, Mr. Ingersoll moved to

add instructions, and sent them to the clerk's desk. While the clerk was reading them, Mr. Ingersoll took his seat. After they were read, Mr. Tucker rose and addressed the chair. Mr. I. claimed his right to the floor; and Mr. speaker decided that he was entitled to proceed in speaking to his motion.

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#### DIVISION OF QUESTION.

May 28, 1830.

The following resolution being under consideration—"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, that the 16th joint rule of the two houses be suspended for the purpose of enabling the House of Representatives to send, this day, to the senate for their concurrence, bills of the titles contained in the shedule hereunto annexed, which passed the house yesterday too late to be sent to the senate for concurrence before the adjournment of that body. [Here follows a schedule of the titles of eight bills, among them "A bill to reduce the duty on salt."] A division of the question to agree to the said resolution was called for by Mr. Taylor, so as that the question be put separately on so much of the schedule as includes the following words: "An act to reduce the duty on salt." The speaker decided that the question proposed to be divided was not divisible. Mr. Taylor appealed from this decision. And on the question, Shall the decision of the speaker stand as the judgment of the house? it passed in the affirmative. Yeas 97, nays 71.

**EFFECT OF DECIDING A PREVIOUS QUESTION IN THE  
NEGATIVE.**

March 27, 1830.

When the previous question, viz. "Shall the main question be now put," is decided in the negative, the effect is that the subject matter under consideration is postponed for one day. (See Journal 468.) The same decision took place on May 25th, 1830. (See Journal, p. 722.)

*The previous question having been seconded cannot be withdrawn except by a vote of the majority.* (See page 282, Journal.)

March 2, 1831.

Mr. Richardson from the joint committee for enrolled bills, reported the following resolution:

Resolved by the senate and house of representatives of the United States, that the 17th joint rule of the two houses, which declares that "no bill or resolution that shall have passed the house of representatives and the senate, shall be presented to the president of the United States for his approbation on the last day of the session," be suspended.

The said resolution being read,

The speaker decided, that under the 17th rule of the house, it was not in order for the committee for enrolled bills to make report at this period of the day of any matter, except the examination and presentation of bills.

Mr. Sutherland appealed from the decision of the chair, on the ground that, by the 105th rule

of the house, it is declared that "it shall be in order for the committee for enrolled bills to report at any time."

And on the question, Shall the decision of the chair stand as the judgment of the house?

It passed in the affirmative.

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May 11, 1832.

Samuel Houston's case under consideration.—

Mr. Huntington moved the following:

Resolved, that Samuel Houston be excluded from the exercise of the privileges conferred by the 13th standing rule of the house.

Mr. Davis of South Carolina inquired whether the said resolution was in order under the rules of the house.

The speaker decided that under the 13th and 105th rules of the house, said resolution was not in order without one day's previous notice, as required by said 105th rule. From which decision Mr. Mercer appealed. And on the question, Shall the decision of the speaker stand as the judgment of the house? It was decided in the negative, yeas 89, nays 106.

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June 23, 1832.

The tariff bill under consideration.

A motion was made that the subject matter before the house do lie on the table; when the reading of a certain paper was called for, and objected to.

The chair decided that it was not in order, *pending a question on a motion to lie on the table*,

to call for the reading of any paper not previously in the possession of the house.

From this decision an appeal was taken to the house ; and the decision of the chair was affirmed, (Mr. Polk officiating.)

June 27, 1832.

The tariff bill under consideration.

A motion was made that the house do again reconsider the vote on a motion to strike out the 10th section of the bill. This motion was objected to as not being in order, the 41st rule of the house declaring that “ when a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof on the same or succeeding day,” &c.

(A motion to reconsider this vote had been once made, and acted upon.)

The speaker decided that the motion was clearly in order.

From which decision Mr. John Quincy Adams appealed, and the decision of the chair was affirmed—yeas 99, nays 84.

So it was decided that a motion to reconsider was in order more than once.

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July 5, 1832.

The subject of humiliation, fasting and prayer, under consideration.

A member having referred in debate to a letter from the president of the United States, which had been read by another member in a previous debate on the subject, and which had been pub-

lished in the newspapers, he was called to order for such reference by a member.

The speaker decided that the reference to the said letter was in order.

From which decision Mr. John Quincy Adams appealed, and before the question on the appeal was put, the house adjourned. On the 9th of July the house resumed the consideration of the subject, and the question recurred on Mr. Adams' appeal, when Mr. Adams withdrew the appeal.

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July 10, 1832.

Mr. Bates, of Maine, moved the following :

Resolved, That the words used in debate yesterday morning by the hon. William Stanbery, a member from Ohio, charging the presiding officer of this house with shaping his course in the chair with a view to the obtainment of office from the president of the United States, was an indignity both to the speaker and the house, and merits the decided censure of the house.

Mr. Mercer excepted to the resolution as out of order, for the words of the member from Ohio were not taken down at the time they were spoken, nor at the close of the speech of the member; because other business has occurred since the imputed insinuations were made; and because a day has elapsed since those words were used, without any action or proceeding of the house in relation thereto.

The chair (Mr. C. C. Clay, officiating) decided that it was in order to receive the resolution.

From which decision Mr. Mercer appealed; when the house proceeded to the orders of the day.

July 11, 1832.

The house resumed the consideration of the resolution moved by Mr. Bates.

The question recurred on the appeal of Mr. Mercer, when

The orders of the day were moved.

The speaker, (Mr. C. C. Clay, officiating,) decided that the matter before the house had precedence of a motion to proceed to the orders of the day.

From this decision Mr. Taylor appealed to the house.

And pending the appeal Mr. Stanbery was addressing the house, when he was called to order for using improper words, which were taken down by a member as follows: "I will make a motion that is in order; I make a motion that you leave that chair."

The words, as reduced to writing were read, when

Mr. Polk moved the following resolution:

Resolved, That the words spoken in this house this morning by William Stanbery, a member from Ohio, and which words were taken down by the clerk of the house, and his conduct in the face of the house, were disorderly, and deserve the censure of the house.

After debate Mr. Polk withdrew the resolution.

And the question was put, viz. Shall the decision of the speaker made yesterday, that it was in order to receive the resolution moved by Mr. Bates, of Maine, stand as the judgment of the house?



And passed in the affirmative. Yeas 82, nays 48.

The question then recurred on the motion made by Mr. Bates.

And Mr. Stanbery was again addressing the house, when

He was called to order for using the following words: "I neither deny, retract, nor explain the words I used the day before yesterday, but do now re-affirm the words I then used."

The speaker decided that the said words were a violation of order, and that Mr. Stanbery could not proceed further in his address without leave of the house.

After further debate, the question was propounded from the chair: "Will the house agree to the resolution of Mr. Bates of Maine?"

The clerk commenced the call of the roll, and having called the name of John Quincy Adams,

Mr. Adams asked to be excused from voting on the question, and handed to the clerk a paper in the following words:

"I ask to be excused from voting on the resolution, believing it to be unconstitutional, inasmuch as it assumes inferences of fact, from words spoken by the member, without giving the words themselves, and the fact not being warranted in my judgment, by the words which he did use."

On the question, Shall Mr. Adams be excused from voting? it was decided in the negative.

Mr. Adams' name was then again called by the clerk, when Mr. Adams said "I decline to answer."

A motion was then made by Mr. Davenport, that the house reconsider its vote on the application of Mr. Adams to be excused from voting.

The house refused to reconsider the said vote. Ayes 59, noes 74.

The clerk then, by order of the speaker, again called the name of Mr. Adams, who remained in his seat, and Mr. Adams making no response,

Mr. Drayton moved the following resolutions :

Resolved, That John Quincy Adams, a member from Massachusetts, in refusing to vote when his name was called by the clerk, after the house had rejected his application to be excused from voting for reasons assigned by him, has committed a breach of one of the rules of the house.

Resolved, That a committee be appointed for the purpose of inquiring and reporting to this house, the course which it ought to adopt in a case so novel and important.

The consideration of these resolutions was postponed until to-morrow.

And the question was then put on the motion made by Mr. Bates, of Maine, and carried in the affirmative, yeas 93, nays 44.

So the house decided that the words used by Mr. Stanbery was an indignity both to the speaker and the house, and merits the decided censure of the house.

July 12, 1832.

The house resumed the consideration of the resolutions moved by Mr. Drayton respecting the refusal of Mr. Adams to vote.

And after debate the said resolutions were laid on the table.

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July 10, 1832.

Tariff bill under consideration.

The question before the house was to agree to the amendment of the senate to increase the duty on brown sugar, and syrup of sugar cane, in casks, from two and a half cents per pound to three cents per pound.

A motion was made by Mr. Drayton to amend the amendment by striking out "three" and inserting "two cents."

Mr. Bullard objected to this motion that it was not in order, because it reduced the duty below the rate already fixed by this house in the bill.

The speaker decided the motion was in order.

Mr. Bullard appealed.

And the decision of the chair was reversed—  
Ayes 78, noes 81.

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January 5, 1833.

A bill was reported to revive and continue in force an act entitled "An act to provide for reports of the decisions of the Supreme Court of the United States," which was read the first and second time, when

It was moved that the bill be engrossed and read a third time.

The speaker decided that, inasmuch as the original act contained the following words, "that a reporter shall, from time to time, be appointed by the Supreme Court of the United States to report

its decisions, who shall be entitled to receive from the treasury of the United States, as an annual compensation for his services, the sum of one thousand dollars," this bill must, under the rule of the house which provides that "all proceedings touching appropriations of money shall be first discussed in a committee of the whole house," be committed to a committee of the whole house, as if it became a law, it necessarily involved an appropriation of money, to pay the salary of the reporter; and that, consequently, a motion at this stage of the proceeding, that the bill be engrossed and read a third time, was not in order.

From this decision Mr. Arnold appealed to the house.

And the question being put, the speaker's decision was affirmed—yeas 161, nays 14.

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Friday, January 18, 1833.

The hour of 1 o'clock having arrived, a motion was made that the house resolve itself into a committee of the whole house on the state of the Union, for the purpose of proceeding in the further consideration of the bill to reduce and otherwise alter the duties on imports.

The motion was objected to on the ground that by the rules of the house, Friday (this day) and Saturday of each week were set apart for the consideration of private bills and private business, in preference to any other business.

The speaker decided that by the rule of the house, private business would take precedence

on this day, unless, as in the same rule provided, it should be otherwise determined by a majority of the house.

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January 22, 1834.

The house proceeded to the consideration of the message from the senate informing the house that the senate have adhered to their second amendment to the bill (No. 361) entitled "An act making appropriations, in part, for the support of the government for the year 1834."

A motion was made by Mr. Polk, that the house do insist on its disagreement to the said amendment, and ask a conference of the senate on the subject matter thereof.

A motion was then made by Mr. Foot, that the house do recede from its disagreement to the said amendment; which motion the speaker decided took precedence of that made to insist and ask a conference.

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February 11, 1834.

A motion was made by Mr. John Quincy Adams, that the house do reconsider the vote of yesterday, referring to the committee of ways and means the memorial of merchants of the city of New York in favour of the warehousing system, against the prompt cash payment of duties, and for the abolition of custom house fees.

The speaker decided that this motion would not come up for consideration until Monday next, the day fixed by the rule for the presentation of *memorials and petitions*.

February 18, 1834.

The previous question was moved by Mr. Muhlenberg : and before it was ascertained that the previous question was or was not demanded by a majority of the members present, a call of the house was moved by Mr. Chilton.

The speaker decided that after the previous question was moved, and before it was ascertained whether there was a second to the motion (which, by the rules of the house required a majority of the members present) it was not in order to entertain a motion for a call of the house.

From this decision Mr. Chilton took an appeal to the house ; and after debate, Mr. Chilton withdrew his appeal. Mr. Adams renewed the appeal ; and after further debate, withdrew it. The appeal was then renewed by Mr. Foster.

And the question was put, " Shall the decision of the speaker stand as the judgment of the house?"

And passed in the affirmative.

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May 12, 1834.

After the lists of yeas and nays had been called on a question before the house, and before the decision thereon was pronounced, Mr. William Allen asked to have his vote taken, having been out of the house when his name was called, attending to his duties as a member of the committee on Indian affairs, which committee has leave to sit during the sittings of the house. The request of Mr. Allen under the circumstances of

his case was granted by a vote of the house ; and his vote is recorded in the list.

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May 16, 1834.

The house resumed the consideration of the resolution moved by Mr. Mardis on the 14th of January, relative to the selection of banks in which to deposit the public money.

The question recurred on the amendment moved by Mr. Corwin on the 12th April. And after further debate, the hour expired ; when a motion was made by Mr. Plummer that the rule setting apart Friday (this day) for the consideration of private business, be suspended, for the purpose of affording Mr. Galbraith an opportunity of closing his remarks upon the said resolution.

And on the question, Shall the rule be suspended for the purpose aforesaid ? it passed in the affirmative, two-thirds voting therefor.

Mr. Galbraith then resumed his remarks, and having concluded the same, a motion was made by Mr. Boon, that the rule be again suspended to enable Mr. Stewart, who intimated a wish to do so, to make a motion that the said resolution do lie on the table. And on the question, Shall the rule be suspended for the purpose aforesaid ? it passed in the affirmative, two-thirds voting therefor.

A motion was then made by Mr. Stewart, that the said resolution, and the amendment proposed by Mr. Corwin, do lie on the table. And before the question was put thereon, Mr. Stewart withdrew his said motion.

The motion that the said resolution, and the amendment proposed by Mr. Corwin do lie on the table, was then renewed by Mr. Moore; and an inquiry was made whether the motion of Mr. Moore could be received without again suspending the rule.

The speaker (Mr. Hubbard acting) decided that the suspension of the rule was for the purpose of receiving a motion to lay the resolution on the table, and to come to a decision on that motion, and it was immaterial by whom the motion might be made; and that the motion made by Mr. Moore would therefore be entertained.

From this decision Mr. John Quincy Adams appealed to the house, on the ground that the motion was to suspend the rule for the purpose of enabling Mr. Stewart to move that the resolution do lie on the table, and that Mr. Stewart having made his said motion, and withdrawn it, it was necessary that the rule should be again suspended before the said motion could be renewed by any other member. And after debate on the appeal, Mr. Moore withdrew his motion that the said resolution and amendment do lie on the table.

An inquiry was then made by the chair, whether the withdrawal of the motion that the resolution do lie on the table, set aside the question on the appeal made by Mr. John Quincy Adams.

The speaker decided that the appeal did not fall by the withdrawal of the motion that the resolution do lie on the table, and that the question on the appeal was the question then pending before the house.



And the question was then put on the appeal moved by Mr. John Quincy Adams, viz. Shall the decision of the speaker stand as the judgment of the house? and passed in the affirmative.

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May 22, 1834.

A motion was made by Mr. Clayton, that the house do adjourn.

And the question being put, it was decided in the negative.

A motion was then made by Mr. Miller that the further consideration of the subject matter before the house be postponed until Tuesday the 27th instant. And after debate thereon, and the yeas and nays being demanded, Mr. Miller withdrew the said motion. And thereupon moved that the said report do lie on the table.

And the yeas and nays being again demanded on the question, Mr. Miller also withdrew that motion. Whereupon, it being half past 4 P. M. Mr. McKinley moved that the house do adjourn; when an inquiry was made of the chair whether that motion was in order, as no question had been put or decided since the house had voted on a motion to adjourn.

The speaker, (Mr. Hubbard officiating,) decided that the motion was in order, and would be entertained, debate having taken place on a motion to postpone subsequent to the decision of the question on the motion made by Mr. Clayton to adjourn; in which decision the house acquiesced. And the question was then put, "will the house adjourn?" and passed in the affirmative.

June 10, 1834.

The previous question having been moved, and sustained by a majority of the house, Mr. Marshall called for the reading of that portion of the report of the committee of elections which contains a statement of the votes.

The speaker decided that, under the 36th rule which declares that "on a previous question there shall be no debate," the reading of the portion of the report called for would not be in order, as it was in the nature of an argument, which, at this stage of the proceedings, was forbidden.

From this decision Mr. Marshall took an appeal to the house, on the ground that it was in order at this stage of the proceedings to call for the reading of any paper connected with the matter in hearing.

And on the question, Shall the decision of the chair stand as the judgment of the house? it passed in the affirmative.

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June 27, 1834.

The bill from the senate (No. 203,) entitled "An act for the benefit of the city of Washington," having been read the third time and passed by yeas and nays, the speaker rose and suggested to the house that doubts were entertained by many members, whether the said bill had been *by a vote of the house* ordered to be read a third time; that these doubts had been informally communicated to him; that according to his recollection of the proceedings in a former part of the day, a

vote of the house had been taken, whereby the bill was ordered to be read a third time, but that the clerk, upon examination of his minutes, did not find an entry of the fact. Under these circumstances, the speaker wished the house to decide whether the bill should be considered passed or not; and thereupon

A motion was made by Mr. John Quincy Adams, that the house do reconsider the vote on the passage of said bill; which motion to reconsider being agreed to, the question was put, Shall the bill be read a third time? and passed in the affirmative.

The said bill was then again read the third time; and on the question, "Shall it pass?" It passed in the affirmative.

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June 28, 1834.

A motion was made by Mr. Speight, that the house do come to the following resolution, viz.

Resolved, That the thanks of this house be presented to the honourable Andrew Stevenson, late speaker, for the firmness, dignity, skill and impartiality with which he filled the office of speaker during the present session.

The resolution being read, an inquiry was made of the chair, whether it could be received and entertained at this state of the business of the day, without a suspension of the rules prescribing the order of business. The speaker (Mr. Bell,) decided that, in an analogous case which occurred on the 3d of March, 1829, the house had decided that a resolution of similar import did not come

**within the rules prescribing the order of business, and that in accordance with the decision then made, the present resolution would be received and entertained.**

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January 9, 1837.

Mr. John Quincy Adams offered to present a petition of Eliza T. Loud and 228 women of South Weymouth, in Massachusetts, which he stated prayed Congress immediately to abolish slavery in the District of Columbia, and to declare every human being free who sets foot upon its soil, and was proceeding to read the petition to the house, and was reading the same, when Mr. Chambers of Kentucky rose to a question of order, and stated the same as follows: that under the 45th rule of the house, which prescribes—  
“That petitions, memorials, and other papers addressed to the house, shall be presented by the speaker, or by a member in his place; *a brief statement of the contents thereof shall verbally be made by the introducer, &c.*” the member from Massachusetts, (Mr. Adams,) had no right to read the petition at length which he offered to present, but is required by the rule, and has the right only  
“*to make a brief statement of the contents thereof.*”

The speaker decided that it was not in order for a member to read the whole petition, but must confine himself to “*a brief statement of the contents thereof.*”

From this decision Mr. Adams appealed to the house; and after debate, Mr. Adams withdrew

the appeal, and the decision of the chair was acquiesced in by the house.

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January 10, 1837.

Before reports from committees were concluded, Mr. Bell rose and offered to submit a motion for leave to bring in a bill to secure the freedom of elections, in pursuance of notice given by him on the 7th instant.

The speaker decided that at this stage of proceeding, it was not in order to make or entertain said motion ; but that it would be in order to submit the said motion at the time when under the rules regulating the proceedings of the house, and the "order of business of the day," it would be in order for the member offering to make the same to submit resolutions or motions to the house.

From this decision Mr. Bell took an appeal to the house.

And the question was stated, Shall the decision of the speaker stand as the judgment of the house? And after debate, Mr. Bell withdrew his said motion for leave.

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January 11, 1837.

A motion was made by Mr. Mann of New York, that the house do proceed to the orders of the day; when Mr. Bell rose to a question of order, which he stated to be, that a motion to proceed to the orders of the day having been once made and decided in the negative, could not be again made the same day and at the same stage of proceeding.

The speaker decided that the house having on

motion once refused to proceed to the orders of the day, did not, after further debate, and at a different period of the day, preclude another motion from being made to proceed to the orders of the day.

From this decision Mr. Bell took an appeal to the house. And the question was stated, Shall the decision of the chair stand as the judgment of the house? And after debate, Mr. Bell withdrew his appeal.

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A bill, (No. 829,) reported from the committee of ways and means to reduce the revenue of the United States to the wants of the government, being under consideration,

Mr. Mann of New York rose to a question of order, which he stated to be, that under the 103d rule of the house, which declares "that no motion or proposition for a tax or charge upon the people shall be discussed the day in which it is offered, and every such proposition shall receive its first discussion in a committee of the whole house," the said bill must be committed to a committee of the whole house.

The speaker decided that as the bill did not on its face contain any "proposition for a tax or charge upon the people," but was a bill to reduce duties on imported articles, by the rule it was not necessarily required to be committed.

From this decision Mr. Mann of New York appealed to the house; and after debate, Mr. Mann withdrew his appeal.

January 23, 1837.

The consideration of the memorial of merchants of Newburyport, in the State of Massachusetts, praying the interference of the government in relation to the rigorous and unnecessary quarantine imposed upon American shipping by the Danish government at Elsineur, presented by Mr. Cushing on the 16th instant, was announced; when, Mr. John Quincy Adams inquired of the chair whether the consideration of the petition of Ralph Sanger and 40 other inhabitants of the town of Dover in the county of Norfolk, in the state of Massachusetts, upon the subject of slavery in the District of Columbia, which he (Mr. Adams,) offered to present on the 19th of January instant, (the receiving of which was objected to by Mr. Lawler, and the question of reception was put on that day,) did not take precedence in the business of this day.

The speaker stated and so decided, that the said petition was embraced by the subsequent order adopted by the house on the 18th instant, which provides "that all petitions, memorials, resolutions, propositions, or papers, relating in any way or to any extent whatever to the subject of slavery or the abolition of slavery, shall without being printed or referred be laid upon the table, and that no further action be had thereon," and that under the operation of said order, the gentleman from Massachusetts would have a right to present the said petitions, and if sent to the clerk's desk, it would lie on the table without further question.

From this decision Mr. Adams took an appeal to the house.

And on the question, Shall the decision of the chair stand as the judgment of the house? it passed in the affirmative, yeas 146, nays 32.

Mr. Adams presented a petition of ministers and members of the Lutheran church in the state of New York, calling "the attention of congress to the condition of more than six thousand of the inhabitants of the District of Columbia, for whose persons, and civil and religious rights, the laws of congress have provided no protection, and setting forth that instead of securing to them those rights which our nation has solemnly declared to belong equally and inalienably to all, the laws have deprived them of all personal rights and subjected their wills to the absolute control of others to whom they are said to belong as property, and have unconstitutionally deprived them of the power of obtaining redress for their wrongs by prosecuting their claims in courts of justice, and of the right of trial by jury in many cases, and virtually of the right of petitioning congress," and requesting congress forthwith to pass such laws as justice and the character of our nation requires to secure to all the inhabitants of the District of Columbia equally and alike the protection of the laws and the enjoyment of all those immunities and advantages which the Declaration of Independence and our constitution recognizes as the inalienable right of every human being."

Mr. Adams moved, as the words slavery or the slave trade, were not mentioned in the petition,



the same be referred to the committee for the District of Columbia.

The speaker decided that the petition came within the order of the house of the 18th instant, which directed "that all petitions, memorials, resolutions, propositions, or papers relating in any way or to any extent whatever to the subject of slavery or the abolition of slavery, shall, without being printed or referred, be laid upon the table, and that no further action be had thereon.

From this decision Mr. Adams took an appeal to the house.

And on the question, Shall the decision of the chair stand as the judgment of the house? it passed in the affirmative, yeas 170, nays 3.

January 30, 1837.

Mr. John Quincy Adams presented a memorial of the "Young Men's Anti-slavery Society of the County of Philadelphia," in the state of Pennsylvania, setting forth that the memorialists have learned that a proposition is now before congress to recognize the independence of Texas, and remonstrating against such recognition; because as the memorialists believe, the insurrection in that country was instigated and principally supported by citizens of the United States; that one of the main objects of it is the establishment of slavery, and the opening of a vast slave market, in that portion of the American continent; that this belief is sustained by voluminous corroborating testimony, and by all the acts of the insurgents; that even the constitution which they have adopted for their government specifically provides for the establishment and perpetuation of

that system, as well as a traffic in human flesh with inhabitants of these states, to the exclusion of all future legislative interference; that in case of their success, thousands of men, women, and children, who were legally free under the Mexican laws, will thus be enslaved, and the foreign as well as the American slave trade, will doubtless be greatly increased and accelerated even beyond the possibility of prevention; and pray congress to reject the proposition to recognize the government assumed by the insurgents of Texas."

Mr. Adams moved that the memorial be read.

The speaker decided that the memorial was embraced in the order of the house of the 18th inst. which directs "that all petitions, memorials, resolutions, propositions or papers relating in any way or to any extent whatever to the subject of slavery or the abolition of slavery shall without being printed or referred, be laid upon the table, and that no further action be had thereon," and that the said memorial would be laid on the table without further action thereon.

From this decision Mr. Adams took an appeal to the house.

And the question was stated, Shall the decision of the chair stand as the judgment of the house? when a motion was made that the appeal do lie on the table: and passed in the affirmative. Yeas 131, nays 63.

January 30, 1837.

Mr. John Quincy Adams presented a petition of Amelia Russell and 222 other women of Kings-

ton in Massachusetts, praying that slavery in the District of Columbia may be abolished.

Mr. Adams moved that the petition be read.

The speaker decided that from the brief statement of the contents thereof made by the member presenting it, according to the 45th rule of the house, it was embraced by the order of the house of the 18th of January instant, and on being presented, would be laid upon the table, and no further action had thereon, "and being by virtue of said order" laid on the table and "no further action could be had thereon," the reading could not be called for.

From this decision Mr. Adams took an appeal to the house ; and the question was stated, Shall the decision of the chair stand as the judgment of the house ? When, on motion, it was ordered that said appeal do lie on the table.\*

February 6, 1837.

Mr. John Quincy Adams was proceeding to present petitions from the state of New Hampshire, Mr. Robertson rose to a question of order, which he stated as follows : Is it in order for the member from Massachusetts (Mr. Adams) when the members from Massachusetts are called under the 16th rule of the house "for petitions," to present petitions from citizens of any state or territory except the state of Massachusetts.

The speaker decided that it is in order.

\* On the same day various petitions on the same subject were presented by Mr. Adams, and like proceedings had on each.

From this decision Mr. Robertson appealed, and after debate withdrew his appeal.

Mr. John Quincy Adams presented a like petition from Elizabeth H. Webster, and 199 other females of the town of Hampton in the state of New Hampshire. These petitions were severally laid on the table under the order of the house of the 18th of January.

Mr. John Quincy Adams was proceeding to present other petitions from the state of N. Hampshire, when Mr. Boon rose to a question of order, which he stated in the same words as that stated by Mr. Robertson above.

The speaker decided that it is in order.

From this decision Mr. Boon took an appeal to the house, which, after debate, he withdrew; when it was renewed by Mr. Chambers of Kentucky, and after further debate,

The previous question was moved by Mr. Patterson, and being demanded by a majority of the members present, the said previous question was put, Shall the main question be now put? and passed in the affirmative.

The main question was then put, Shall the decision of the chair stand as the judgment of the house? and passed in the affirmative, yeas 139, nays 29.

February 9, 1837.

The house resumed the consideration of the resolution moved by Mr. Thompson of South Carolina in relation to Mr. John Quincy Adams, one of the members from the state of Massachusetts. The question recurred on the amendment moved by

Mr. Patton to the amendment moved by Mr. Bynum. And whilst Mr. Evans was addressing the house he was called to order by Mr. Harrison of Missouri, who reduced his call to writing as follows: "The gentleman from Maine, (Mr. Evans,) is called to order because he is speaking of the opinions of others on the subject of slavery, when that is not the question before the house."

The speaker decided that Mr. Evans was not in order.

And thereupon Mr. Evans took his seat.

A motion was then made by Mr. Elmore, that Mr. Evans have leave to proceed in his speech.

And the question being put, it passed in the affirmative.

The resolution moved by Mr. Thompson of S. Carolina, in relation to Mr. John Quincy Adams, still being under consideration, Mr. Briggs rose to a question of order, which he stated as follows: "The first resolution offered by the gentleman from South Carolina, (Mr. Thompson,) is a paper relating to the subject of slavery, and by the resolution of the 18th of January, must be laid on the table without any further proceeding."

The speaker decided that the resolution pending on the subject before the house, did not fall within the order of the 18th of January.

From this decision Mr. Briggs appealed to the house; which appeal he afterwards withdrew.

Mr. John Quincy Adams then raised a question of order, which he stated as follows:

"That the subject before the house is a question which I put to the speaker, whether the pa-

per which I had in my hand, purporting to be a petition from slaves, which I was requested to present, came within the order of the house of the 18th of January. The speaker said he would take the advice and counsel of the house. Mr. Adams submits that this question is now before the house; and that the resolution offered by the gentleman from Virginia does not answer the question which I propounded to the speaker, and is not pertinent to the subject of debate."

The speaker decided that the subject before the house was the resolutions offered by the member from South Carolina as last modified by him.

The house then divided upon the motion for the previous question, when it was found that it was not demanded by a majority of the members present.

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February 15, 1837.

The investigation of the case of Reuben M. Whitney being before the house, and whilst a witness was framing his answer to a question propounded, Mr. Chambers of Kentucky moved that the house do come to the following resolution, viz. Resolved, that the further examination of witnesses in the case of Reuben M. Whitney be suspended until he be examined on oath, touching the contempt of this house alleged against him; and that the committee appointed to examine witnesses in his case proceed to examine him accordingly.

The speaker decided that at this stage of proceeding said resolution is not in order.

From this decision Mr. Chambers of Kentucky

took an appeal to the house ; when a motion was made by Mr. Boon that the appeal do lie on the table. And the question being put, it passed in the affirmative: yeas 104, nays 66.

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Feb. 25, 1837.

The bill (No. 756,) making appropriations for certain fortifications of the United States for the year 1837 being under consideration, a motion was made by Mr. Cambreleng further to amend the second amendment, by adding as follows :

Sec. And be it further enacted, That from and after the 31st day of December next, in all cases where duties are imposed on foreign imports by the act of the 14th of July, 1832, entitled "An act to alter and amend the several acts imposing duties on imports," or by any other act which shall exceed twenty per ~~centum~~ on the value thereof, one third part of ~~such~~ excess shall be deducted ; from and after ~~the~~ 30th June 1838, one half of the residue of ~~such~~ excess shall be deducted, and on the 31st of December, 1838, the other half shall be deducted, any thing in the act of the 2d March, 1833, to the contrary notwithstanding.

Sec. And be it further enacted, that from and after the 30th September next, the duty on salt shall be, and the same is hereby repealed."

The said amendments being read, Mr. Mercer made a point of order, and stated the same to be, that the subject matter of the amendment had been committed in the form of a bill, to the committee of the whole house on the state of the

Union, (See bill 829) to reduce the revenue of the United States to the wants of the government, and that the same could not, therefore, be moved as an amendment to another bill.

The speaker (Mr. Briggs officiating,) decided that the amendment now offered was materially different and variant from the bill which had been reported and committed to the committee of the whole house to which reference had been made, and that therefore it was in order to propose and entertain the said amendment.

From this decision Mr. Mercer took an appeal to the house.

And the question was put, Shall the decision of the chair stand as the judgment of the house? And was decided in the negative: yeas 94, nays 97. And so the decision of the chair was reversed, and the amendment moved by Mr. Cambreleng was decided to be not in order according to the 40th rule of the house.

A motion was then made by Mr. Martin further to amend the said second amendment reported from the committee of the whole house on the state of the Union, by adding as follows:

Sec. And be it further enacted, that the sales of the public lands shall cease, from and after the passage of this act, except to actual settlers upon the public lands, under such rules and regulations as shall be prescribed by the secretary of the treasury, with the approbation of the president of the United States, and which shall not be inconsistent with the following instructions:



1st. That no settler shall purchase a larger quantity of land than two sections.

2d. That two years residence upon the land after the purchase, shall be necessary, and shall be satisfactorily proved to the secretary of the treasury, before patent issues.

3d. The price of the public land to the settler shall be regulated as follows: to the purchaser of a quantity of land not exceeding one quarter of a section fifty cents per acre; not exceeding one half section, seventy-five cents per acre; and to the purchaser of a section or more, one dollar and twenty-five cents per acre.

The speaker, (Mr. Briggs officiating,) decided that under the decision of the house just made on the appeal by Mr. Mercer from the decision of the chair on the amendment proposed by Mr. Cambreleng, this motion to amend was not in order.

From this decision Mr. Martin took an appeal to the house.

And the question was put, Shall the decision of the chair stand as the judgment of the house? And passed in the affirmative; yeas 116, nays 68.

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March 2, 1837.

The house proceeded to the consideration of the following resolutions from the senate, viz.

Resolved, That the 16th joint rule of the two houses be suspended, so far as to authorize the sending from one house to the other, any bills which passed either house on the 28th ultimo.

And after being amended, the question was stated, "will the house concur with the senate in

the said resolution as amended? when an inquiry was made by Mr. Pickens, whether under the 107th rule of the house, which is in the following words: No standing rule shall be rescinded or changed without one days' notice being given of the motion therefor, nor shall any rule be suspended except by a vote of at least two-thirds of the members present; nor shall the order of business as established by the rules of the house be postponed or changed except by a vote of at least two-thirds of the members present," it did not require a vote of two-thirds of the house to concur with the senate in said resolution.

The speaker decided that the said rule applied only to the rules and orders of the house, and not to the "joint rules and orders of the two houses," and that it was competent for a majority to concur with the senate in their said resolution.

From this decision Mr. Pickens took an appeal to the house.

And after debate, the previous question was moved by Mr. Wardwell, and being demanded by a majority of the members present, the said previous question was put—Shall the main question be now put? and passed in the affirmative.

The main question was then put: Shall the decision of the chair stand as the judgment of the house? And passed in the affirmative. Yeas 184, nays 43.

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December 20, 1837.

The house proceeded to the consideration of the memorial of Isaiah Stokes and 292 other men,

and of Rachael Frank and 304 other women, of the town of Starksborough and its vicinity, in the state of Vermont, praying the abolition of slavery and the slave trade in the district of Columbia, presented by Mr. Slade on the 18th inst.; and of the motion made by Mr. Slade on that day, that the said memorial be referred to a select committee; when Mr. Slade modified said motion as follows: That the said memorial be referred to a select committee, with instructions to report a bill providing for the abolition of slavery and the slave trade in the District of Columbia.

And whilst Mr. Slade was debating this motion, Mr. Rhett rose to a point of order, viz. Whether discussion of the question of slavery in the States is in order, in debating the motion before the house.

The speaker decided that Mr. Slade was not in order in discussing the question of slavery in the States, in debating the motion before the house.

Mr. Slade then asked permission to read a paper; to which objection was made.

The speaker having, on the point of order raised by Mr. Rhett, decided that Mr. Slade was out of order, Mr. McKay, under the 22d rule of the house, objected to his proceeding further in his speech; which 22d rule provides that a member decided to be out of order cannot proceed "in case any member object, without leave of the house.

Mr. Slade thereupon asked leave of the house to proceed with his speech.

A motion was then made, at two o'clock, P. M., that the house do adjourn.

And the question being put, it passed in the affirmative, yeas 105, nays 64.

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December 26, 1837.

The house proceeded to the consideration of the petition presented on the 18th instant, by Mr. John Quincy Adams, from the members of the New York Peace Society, and other individuals friendly to the peace cause, praying congress, for reasons set forth in the petition, to accede to the proposition of the Mexican congress, as couched in the following terms, contained in a decree of that congress, dated May 20, 1837, viz: "The government is hereby authorized to compromise the claims which the government of the United States has instituted, or may hereafter institute; and those in which they cannot agree may be submitted to the decision of a friendly power, the United States of America agreeing thereto."

The questions pending were—

By Mr. Adams: That the petition be referred to a select committee, with instruction to read, consider, and report thereon to the house;

By Mr. Howard: That the petition be referred to the Committee on Foreign Affairs;

By Mr. Adams: To amend this motion, by adding, "with instruction to read, consider, and report thereon to the house."

The question recurred on the motion of Mr. Adams to amend the motion of Mr. Howard; when

Mr. Adams modified his motion by withdrawing the word *read*.

And while discussing the question before the house, to wit, the motion of Mr. Adams to amend the motion of Mr. Howard that the memorial be referred to the Committee on Foreign Affairs, by adding, "with instruction to consider and report thereon to the house," he was reading from the report of the Committee on Foreign Affairs of the 24th of February, 1837, on the relations between the United States and Mexico; and he was decided by the speaker to be out of order in reading from the said report, and commenting thereon, the same being irrelevant to the question pending before the house, and in violation of the rule which provides that a member, in speaking "shall confine himself to the question under debate."

From this decision Mr. Underwood appealed, which appeal he subsequently withdrew.

Mr. Turney objected to Mr. Adams' proceeding in his speech without leave of the house, according to the 22d rule.

Mr. Williams, of North Carolina, then moved that Mr. Adams have leave to proceed in his speech.

And the question was stated on this motion; when

Mr. Howard, at his request, was excused from voting thereon.

The question was then put on the motion that Mr. Adams have leave to proceed in his speech;

And passed in the affirmative: Yeas, 119; Nays, 29.

January 29, 1838.

The house resumed the consideration of the memorial and petition of John Ross, R. Taylor, Edward Gunter, James Brown, Samuel Gunter, Elijah Hicks, Site Wakee, and White Path, a delegation appointed by the Cherokee nation, on behalf of themselves and their constituents.

The motion made by Mr. Hopkins, on the 23d instant, that the house do reconsider the vote of the 22d instant, on the motion that the said memorial and petition do lie on the table, came up for consideration; and the question was stated by the speaker; when

Mr. Everett inquired of the speaker whether the motion to reconsider was subject to debate.

The speaker decided that, inasmuch as by the rules of the house "the motion to lie on the table shall be decided without debate," the motion to reconsider a vote of the house, or a motion to "lie on the table," must be decided without debate.

From this decision Mr. Everett took an appeal to the house, but subsequently withdrew the same.

And the question was put, Will the house reconsider the vote of the 22d instant, on the motion that the said memorial and petition do lie on the table?

And passed in the affirmative: Yeas, 121; Nays, 82.

February 9, 1838.

The hour allotted to the consideration of reports from committees and resolutions having expired, the speaker announced the orders of the day, viz: "private bills and private business;" when

Mr. Evans inquired whether the message of the President of the United States of the 29th of January, transmitting information called for by the house on the 9th of January, in relation to the imprisonment of Mr. Greely, a citizen of the United States, by the British authorities of the province of New Brunswick; and the bill No. 540, introduced on leave, on the 8th instant, to provide for surveying the northeastern boundary line of the United States, according to the provisions of the treaty of peace of 1783; a motion to refer which message and bill to the Committee on Foreign Affairs was under consideration at the adjournment of the house, yesterday, did not take precedence of "private bills and private business" this day [Friday.]

The speaker stated that this being Friday, and as by the 20th rule it "is provided that Friday and Saturday in every week shall be set apart for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the house," the "consideration of private bills and private business" would take precedence this day; but that, as this was the first time that the 18th rule, as it had been amended, had received a construction in this respect, and as upon the face of said 18th and

20th rules, there may be doubt as to their proper construction, he would take the sense of the house on this point.

The question was put to the house accordingly; when it was decided that private bills and private business took precedence this day over the said message and the motions pending thereon.

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April 18, 1838.

After the list of yeas and nays had been called on the question of engrossing the house bill (No. 230) making appropriations for the continuation of the Cumberland road in Ohio, Indiana, and Illinois, and for other purposes, and before the decision thereon was pronounced, Mr. Franklin H. Elmore asked to have his vote taken, having been out of the house when his name was called, attending to his duties as a member of the select committee, appointed on the 28th day of February last, to investigate the causes which led to the death of the honourable Jonathan Cilley, late a member of this house, and the circumstances connected therewith; which committee has leave to sit during the sitting of the house; and objection being made,

Mr. Elmore moved that the rule be suspended, for the purpose of affording him an opportunity to record his vote; and the question being put, two-thirds of the members present voted therefor, and the rule was suspended accordingly.

Whereupon, Mr. Bell made a question of order, viz: That it was not competent to suspend the rules for the purpose of permitting a member who



was out of the house when his name was called to record his vote,

The speaker decided that, in conformity to the previous practice of the house, it was competent for the house, by a vote of two-thirds, to suspend its rules for that purpose.

From this decision Mr. Bell took an appeal to the house ;

And the question was stated : Shall the decision of the chair stand as the judgment of the house ?

And was decided in the affirmative.

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May 22d, 1838.

A message was received from the president of the United States, submitting to congress a copy of a communication, addressed by the secretary of war to the Cherokee delegation.

Ordered, That the said message be referred to the committee of the whole house on the state of the Union.

A motion was made by Mr. Glascock that the house do reconsider the vote by which the said message from the president of the United States was committed to the committee of the whole house on the state of the Union.

A motion was made by Mr. Reed that the motion to reconsider do lie on the table ; which motion to lie was disagreed to.

And the question was put, that the house do reconsider the said vote ;

And passed in the affirmative.

The question then recurred that the said message be referred to the committee of the whole house on the state of the Union ; when

A motion was made by Mr. Glascock, that it be referred to the committee on Indian affairs.

The question now again recurred on the motion that the said message be referred to the committee of the whole house on the state of the Union ; and, being put,

It was decided in the negative.

The question recurred on the motion to refer to the committee on Indian affairs ; when

A motion was made by Mr. Everett to amend said motion, by adding thereto these words : “ and that the committee have power to send for persons and papers.”

And, after debate,

The previous question was moved by Mr. Ather-ton ; when,

A motion was made by Mr. Owens that the message do lie on the table.

Mr. Wise called for the reading of the message.

The chair decided that the message having been once read, and pending the motion for the previous question, it was not in order to call for the reading of the same ; when, by consent, by a vote of the house informally taken, the message was read : when

Mr. Wise called for the reading of the documents accompanying the message.

The chair decided, as before, that, at this stage of the proceeding, it was not in order to call for the reading of the same ; and that the second reading of the message, in the present stage of the question, had been irregular.

From this decision Mr. Wise took an appeal to the house.

And the question was put, Shall the decision of the chair stand as the judgment of the house?  
And passed in the affirmative.

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May 29, 1838.

The house resolved itself into the committee of the whole house on the state of the Union; and, after some time spent therein, the speaker resumed the chair, and Mr. Howard reported that the committee had, according to order, had the state of the Union generally under consideration, particularly the bill (No. 676) making appropriations for preventing and suppressing Indian hostilities for the year 1838, and for arrearages for the year 1837; and finding itself without a quorum, had risen, and directed him to report the fact to the house.

A motion was made by Mr. Wise, at 5 minutes past 5 o'clock, P. M., that the house do adjourn.

Which was decided in the negative: yeas, 59; nays, 83.

A call of the house was then moved by Mr. John Quincy Adams: when,

At half past 5 o'clock, P. M., a motion was made by Mr. Wise that the house do adjourn:

Which was again decided in the negative: yeas, 59; nays, 83.

The question recurred on the motion that there be a call of the house: when

Mr. Dromgoole made a question of order, viz: whether, when the house, in committee of the whole, finding itself without a quorum, the chairman leaves the chair, and reports that fact to the house, and after a question for adjournment is

taken, and it appearing that a quorum is present, it is in order to entertain a motion that there be a call of the House.

The Speaker decided it was in order to entertain the motion.

From this decision Mr. Dromgoole took an appeal to the House; and the question was stated, Shall the decision of the chair stand as the judgment of the House?

And passed in the affirmative.

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· JUNE 23, 1838.

The House resumed the consideration of the report of the committee on foreign affairs of the 13th instant, in relation to the annexation of Texas to the Union of these States.

The question recurred on the amendment moved by Mr. John Quincy Adams on the 15th instant to the amendment moved by Mr. Thompson on the 12th instant to the instructions contained in the motion made by Mr. Cushing on the 13th instant, to recommit the said report to the committee on foreign affairs.

And, whilst this question was under debate, Mr. Adams was called to order by the speaker, who decided that his remarks were irrelevant to the subject matter of the question before the House, and in violation of the rule which declares that a member "shall confine himself to the question under debate."

From this decision Mr. Adams took an appeal to the House; and the question was put, Shall the decision of the chair stand as the judgment of

the House? and passed in the affirmative; yeas 115, nays 36.

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**JULY 6, 1838.**

The debate on the said bill (to wit, Senate bill No. 211, "to prevent the issuing and circulation of the bills, notes, and other securities of corporations created by acts of Congress which have expired,") was resumed, and Mr. Prentiss, of Mississippi, was on the floor addressing the House, when Mr. John Quincy Adams rose to a point of order, which he submitted, in writing, in the words following:

"It having been determined by a majority of the members of this House that this bill, a highly penal bill, subjecting citizens of the United States to fine and imprisonment, should be passed by the operation of the question, without debate or discussion, is the gentleman from Mississippi, (Mr. Prentiss,) in order in obtaining the floor and consuming the time of the House, against the sense and intention of a majority of the said members?"

The Speaker decided that the member from Mississippi was entitled to the floor, and was in order in addressing the House on the bill under consideration.

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**JULY 9, 1838.**

A motion was made by Mr. Wise, that the House do reconsider its vote of Saturday last, agreeing to the following resolution moved by Mr. Beatty, viz.

Resolved, That the sixteen members reported by the serjeant-at-arms be called on, when they

next appear in this hall, to render a reason why they disobeyed the order of this House.

Mr. Wise moved the previous question; when

Mr. Mercer rose to a point of order, which he reduced to writing, in the words following:

Mr. Wise, of Virginia, moved to reconsider a resolution of the House adopted at its last session, and at the same time, and in the same sentence, the previous question; and the speaker, on exception being taken thereto, pronounced the motion of Mr. Wise in order. Upon which Mr. Mercer appealed from the judgment of the chair, on the ground that the two motions could not be entertained at the same time.

The speaker decided that the motion to reconsider having been made, and being in possession of the House, it was in order for Mr. Wise, who had possession of the floor, to move the previous question.

And the question was stated on the appeal of Mr. Mercer, viz: Shall the decision of the chair stand as the judgment of the House?

And passed in the affirmative.

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### DECEMBER 14, 1838.

Petitions for the abolition of slavery and the slave trade in the District of Columbia; for the abolition of the slave trade in the states; and against the annexation of any new state to the union of these states, whose constitution shall

tolerate slavery, were presented by Mr. Calhoun, of Massachusetts, viz :

From ladies of South Hadley, in the state of Massachusetts ;

From sundry male citizens of South Hadley, in the state of Massachusetts ;

From sundry citizens of Southampton, in the county of Hampshire, in the state of Massachusetts ;

From sundry citizens of South Wilbraham, in the county of Hampden, in the state of Massachusetts ;

From sundry women of North Brookfield, in the state of Massachusetts.

Mr. Wise objected to receiving these petitions.

The Speaker decided that the said petitions were embraced by the order of the House of the 12th instant, which provided " that every petition, memorial, resolution, proposition, or paper, touching or relating in any way, or to any extent whatever, to slavery, as aforesaid, or the abolition thereof, shall, on the presentation thereof, without any further action thereon, be laid upon the table, without being debated, printed, or referred ;" and that, on the " presentation" of said petitions, the preliminary question that they be received cannot, under the said order of the 12th instant, be entertained ; but that " upon presentation thereof," under the said order, the said petitions would lie on the table.

From this decision Mr. Wise took an appeal to the House.

And, after debate,

The previous question was moved by Mr. Taylor; and, being demanded by a majority of the members present,

The said previous question was put, viz: Shall the main question be now put?

And passed in the affirmative.

The said main question was then put, viz: Shall the decision of the chair stand as the judgment of the House?

And passed in the affirmative, yeas, 186, nays, 6.

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DECEMBER 17, 1838.

A motion was made by Mr. Fry, that the rules in relation to the order of business be suspended, for the purpose of affording him an opportunity to move a resolution; which was read, and is as follows, viz:

*Resolved*, That the President of the United States be requested to communicate to this House (if not incompatible with the public interest) whether, since the commencement of the present session of Congress, any call has been made upon the Executive department of this Government, by the Governor of Pennsylvania, for an armed force of the United States troops; and what (official) correspondence, if any, has taken place between him and the Government of said state, in relation to said call; and whether any arms, powder, ball or buckshot, or other munitions of war, have been furnished by the United States to any of the troops in Pennsylvania recently called out by order of the Executive of that State.

And on the question, Shall the rules be suspended for the purpose aforesaid?



It passed in the affirmative, (two-thirds voting therefor,) yeas, 138, nays, 55.

The said resolution was then submitted, and again read: when,

At the instance of Mr. Cushing, it was modified by the mover, by adding thereto the following:

“And whether any officer of the United States instigated or participated in certain late riotous proceedings in the State of Pennsylvania, as alleged in the proclamation of the Governor of said State; and what measures, if any, the President has taken to investigate and punish the said acts; and whether any such officer still remains in the service of the United States.”

And whilst the question on agreeing to said resolution was under debate, Mr. Naylor was called to order by the Speaker, who decided that his remarks were irrelevant to the question before the House, and in violation of the rule which declares that a member, in debate, “shall confine himself to the question under debate.”

Mr. Naylor thereupon took his seat; and objection being made to his proceeding in his speech,

A motion was made by Mr. Wise that Mr. Naylor have leave to proceed;

And the question being put, it passed in the affirmative.

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### DECEMBER 20, 1838.

Mr. John Quincy Adams presented a petition of Jacob Chase and others, legal voters of Hudson, in the county of Hillsborough, in the state of New Hampshire, praying the abolition of slavery

in the District of Columbia and in Florida ; to prohibit the slave trade between the states ; and that no new state may be admitted into the union whose constitution tolerates slavery ; and, further, that their petition may be referred to a select committee, before whom they may be heard in person or by counsel.

Mr. Adams moved that so much of said petition as prays that the petitioners may be heard in person or by counsel may be granted.

The Speaker decided that the said motion was not in order, and that the petition was embraced in the order of the House of the 12th instant, which directs "that every petition, memorial, resolution, proposition, or paper, touching or relating in any way, or to any extent whatever, to slavery as aforesaid, or the abolition thereof, shall, on the presentation thereof, without any further action thereon, be laid upon the table without being debated, printed, or referred;" and that said memorial would be laid on the table without further action thereon.

From this decision Mr. Adams took an appeal to the House ;

And the question was put, Shall the decision of the chair stand as the judgment of the House ?

And passed in the affirmative, yeas, 180, nays, 8.

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DECEMBER 20, 1838.

Mr. John Quincy Adams presented the under-mentioned petitions, which severally pray for the abolition of slavery in the District of Columbia and in the Territories of the United States, and to prohibit the slave trade between the states ; and,

further, that their petitions may be referred to a select committee, before whom they may be heard in person or by counsel, viz :

From Silas Morton and eighty-seven other male and female inhabitants of Otisfield and Raymond, in the county of Cumberland, in the state of Maine.

From S. Marsh and other inhabitants of the town of Enfield, in the county of Tompkins, in the state of New York.

From B. S. Halsey and three hundred and twenty-one other inhabitants of the town of Ithaca, in the county of Tompkins, in the state of New York.

From Spencer Shoemaker and eighty-one other male and female inhabitants of Horsham township, in the county of Montgomery, in the state of Pennsylvania.

From Beta Hotchkiss and fifty-six other male and female inhabitants of Watertown, in Litchfield county, in the state of Connecticut.

From Hannah H. Smith and three hundred other women of Glastonbury, in the county of Hartford, in the state of Connecticut.

From E. L. Preston and one hundred and nine other men and women of the town of Brooklyn, in the county of Windham, in the state of Connecticut.

From Benjamin G. Willing and other citizens, male and female, of the town of Milton, in the county of Strafford, in the state of New Hampshire.

From Thomas Thatcher and fifty-nine other ci-

tizens of the town of Thompson, in the state of Connecticut.

From Oliver Hale and forty-five other inhabitants of the town of Glastonbury, in the county of Hartford, in the state of Connecticut.

From Abby Sanford and other women of East Bridgewater, in the county of Plymouth, in the state of Massachusetts.

Mr. Adams, in presenting each of the before-mentioned petitions, moved that so much of said petitions as prays that the petitioners may be heard in person or by counsel, be granted.

The Speaker decided that the motion was not in order, and that the petitions were embraced in the order of the House of the 12th instant, which directs "that every petition, memorial, resolution, proposition, or paper, touching or relating in any way, or to any extent whatever, to slavery as aforesaid, or to the abolition thereof, shall, on the presentation thereof, without any further action thereon, be laid on the table, without being debated, printed, or referred;" and that the said petitions would be laid on the table without further action thereon.

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DECEMBER 22, 1838.

The House resumed the consideration of the petition of Abby Sanford and other women of East Bridgewater, in the county of Plymouth, in the state of Massachusetts, praying Congress to recognise, in the usual form and manner, and to enter into the customary international relations with, the republic of Hayti.

The question recurred on the motion made by

Mr. John Quincy Adams on the 20th instant, that the said petition be referred to the committee on Foreign Affairs, with instruction to consider and report thereon.

A division of the question on this motion having been called by Mr. Dromgoole on the 20th, the question was put on so much thereof as proposed that the petition be referred to the Committee on Foreign Affairs;

And passed in the affirmative.

The question recurred on the remainder of said motion, viz: the instructions to the committee "to consider and report thereon."

And whilst this question was under debate, Mr. John Quincy Adams was called to order by the Speaker, who decided that his remarks were irrelevant to the question before the House, and in violation of the rule of the House which declares that a member in debate "shall confine himself to the question under debate."

Objections being made to Mr. Adams's proceeding further in his speech, by Mr. Bynum,

A motion was made by Mr. Briggs that Mr. Adams have leave to proceed;

And the question being put on this motion,

It passed in the affirmative, yeas, 114; nays, 47.

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#### JANUARY 7, 1839.

The consideration of the petition of inhabitants of West Randolph, in the county of Orange, and State of Vermont, praying Congress to recognise, in the usual form and manner, and to enter into the customary international relations with the republic of Hayti, presented by Mr. Slade on the

20th of December ultimo, and laid on the table to be taken up in its order, under the 51st rule of the House, being called for by Mr. Slade :

The Speaker decided that, according to the 51st rule which provides that petitions, memorials, and other papers shall not be debated on the day of their being presented, “ nor on any day assigned by the House for the receipt of petitions after the first thirty days of the session, unless where the House shall direct otherwise,” the said petition could not be considered at this time, this being a day assigned by the House for the receipt of petitions, (the first thirty days of the session having expired,) unless directed by a vote of the House.

A motion was then made by Mr. Slade, that the House do proceed to the consideration of said petition ;

And the question being put,  
It passed in the negative.

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JANUARY 7, 1839.

Mr. John Quincy Adams offered to present a petition, and made a “ statement of the contents thereof.”

Objection was made by Mr. Dromgoole to receiving the same, on the ground that the same was not respectful to the House.

And on the question, Shall the petition be received ?

It passed in the negative, yeas, 25 ; nays, 115.

And so the petition was not received.

Mr. Adams moved that the petition refused to be received be entered on the Journal.

The Speaker decided that the petition not being in the possession of the House, the motion was not in order.

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JANUARY 17, 1839.

The House resumed the consideration of the message of the President of the United States of the 8th of December, communicated on the 10th, in relation to the recently discovered default of Samuel Swartwout, late collector of the customs at the port of New York.

\* \* \* \* \*

The question then again recurred on the amendment moved by Mr. Thomas to the amendment moved by Mr. Garland of Virginia, to strike out "ballot," and insert "viva voce;" when

Mr. Wise made a point of order; and stated his point to be, that it was not in order to move the amendment to the amendment, viz: to strike out "ballot" and insert "viva voce," because, by the rule of the House, "all committees shall be appointed by the Speaker, unless otherwise specially directed by the House; in which case they shall be appointed by ballot."

The Speaker decided that it was in order to move the amendment, and that the point raised might be "a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress, as if it were against order:" that if the amendment to the amendment be agreed to by a majority, and the amendment as amended be incorporated into the resolution by a majority, the resolution, in that form, would

require, under the 119th rule, which provides, "nor shall any rule be suspended except by a vote of at least two-thirds of the members present," a vote of two-thirds to pass the same.

From this decision, (that the motion to amend the amendment was in order,) Mr. Wise took an appeal to the House.

And, after debate, the previous question was called by Mr. Harlan; and being demanded by a majority of the members present, the question was put on ordering the main question, and decided in the affirmative.

The main question was then stated, to wit: Shall the decision of the Chair stand as the judgment of the House? when

Mr. Wise withdrew his said appeal.



JANUARY 21, 1839.

STATE OF VERMONT.

*Resolved by the Senate and House of Representatives,* That our Senators in Congress be instructed, and our Representatives be requested, to use their utmost efforts to prevent the annexation of Texas to the United States, and to procure the abolition of slavery and the slave trade in the District of Columbia and the Territories of the United States, and the slave trade between the several States and Territories of the Union.

*Resolved,* That the adoption by the House of Representatives of the United States, on the



21st December last, [1837,] of the resolution by which "all petitions, memorials, and papers, touching the abolition of slavery, or the buying, selling, or transferring of slaves, in any State, District or Territory of the United States," were "laid upon the table without being debated, printed, read, or referred," was a daring infringement of the right of the people to petition, and a flagrant violation of the constitution of the United States: and we do, in the name of the people of Vermont, protest against the passage of the same, or any similar resolution, by the present or any future Congress of the United States.

*Resolved*, That our Senators in Congress be instructed, and our Representatives requested, to present the foregoing resolutions to their respective Houses, and use their influence to carry the same into effect.

*Resolved*, That the Governor be requested to transmit a copy of the foregoing resolutions to the President of the United States, and to each of our Senators and Representatives in Congress.

A motion was made by Mr. Everett, that the said resolutions be read, printed, and committed to the Committee of the Whole House on the state of the Union.

The Speaker decided that the resolutions came within the order of the House of the 12th of December ultimo, which directs "that every petition, memorial, resolution, proposition, or paper, touching or relating in any way, or to any extent whatever, to slavery as aforesaid, or the abolition thereof, shall, on the presentation thereof, without any

further action thereon, be laid upon the table, without being debated, printed, or referred ;” and that the said resolutions of the Legislature of the State of Vermont would be laid on the table accordingly, without further action thereon, and without being debated, printed, or referred.

From this decision Mr. Everett took an appeal to the House.

And, after debate,

The previous question was moved by Mr. Bronson ; when,

A motion was made by Mr. Parris, that the appeal do lie on the table.

A motion was then made by Mr. Morgan, at twenty-five minutes past four o'clock, that the House do adjourn ; which was decided in the negative.

A motion was then made by Mr. Morgan, that there be a call of the House ; which was also decided in the negative.

And then, at half-past four o'clock, the House adjourned until to-morrow, twelve o'clock meridian.

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#### FEBRUARY 4, 1839.

The House resumed the consideration of the resolutions of the Legislature of the State of Vermont, presented by Mr. Everett, on the 21st of January ultimo.

The question recurred on the motion made by Mr. Parris, that the appeal from the decision of the Speaker, in relation to the motion made by

Mr. Everett, on the 21st of January, that said resolutions be read, printed, and committed to the Committee of the Whole House on the state of the Union, do lie on table ; when

Mr. Parris withdrew said motion ; and then

Mr. Bronson withdrew the motion for the previous question, made by him, and pending on the 21st January.

And it now appearing that a part of said resolutions of the Legislature of the State of Vermont did not relate to the subject of slavery within the States and Territories of the United States, the Speaker modified his decision, made on the 21st January ultimo, and decided that so much of said resolutions as relates to the “ abolition of slavery and slave trade in the District of Columbia and the Territories of the United States, and the slave trade between the several States and Territories of the Union,” came within the order of the House of the 12th December ultimo, which directs “ that every petition, memorial, resolution, proposition, or paper, touching or relating, in any way, or to any extent whatever, to slavery as aforesaid, or the abolition thereof, shall, on the presentation thereof, without any further action thereon, be laid upon the table, without being debated, printed, or referred ;” and that so much of the said resolutions of the Legislature of the State of Vermont would be laid on the table accordingly, without further action thereon, and without being debated, printed, or referred.

The question was stated, Shall the decision of the Chair stand as the judgment of the House ?

A motion was made by Mr. Bronson, that the said appeal do lie on the table ;

And the question being put on this motion,

It passed in the affirmative, yeas, 122 ; nays, 44.



## QUESTIONS OF ORDER

*Decided by John Q. Adams, Chairman, during the process of Organizing the House.*



SATURDAY, DECEMBER 7, 1839.

Mr. Duncan, of Ohio, being entitled to the floor when the House adjourned yesterday, proceeded to address the House, and called for the reading of the evidence upon the Clerk's table, that Messrs. Dickerson, Ryall, Cooper, Kille, and Vroom, were duly elected members of the House for the 26th Congress. No objection having been made, the reading the evidence was commenced by the Clerk ; and he having proceeded some time therein,

Mr. White, of Kentucky, objected to the further reading of the papers, on the ground that the evidence was taken *ex parte*.

The Chair then read the 51st rule of the House, which relates to the reading of papers ; which

says, if the reading of a paper be objected to, the House shall determine whether it shall be read.

The decision was acquiesced in.

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DECEMBER 10, 1839.

Mr. McKay moved that neither set of members claiming seats from New Jersey shall vote until the question "who shall vote from New Jersey?" be decided by the House.

Mr. William Cost Johnson, of Maryland, moved to amend the motion of Mr. McKay, by striking out all after the word *Resolved*, and inserting as follows:

'That a certificate of election as a member of the House of Representatives of the United States, duly made in conformity with the laws of the State which the parties profess to represent, and signed by the proper officers, under the great seal of the State, is sufficient *per se* to entitle the person to whom it is given to be sworn in as a member of this House, provided that no State shall have more representatives than is allowed to it by the Constitution and laws of the United States.

*Resolved*, That under the fifth section of the first article of the Constitution, the House of Representatives of the United States can look beyond such certificates and judge of the elections, returns, and qualifications of its own members, only after it shall have been organized and sworn.

Mr. Petrikin here submitted a question of order, in the words following: That it is not in order for the Chair to entertain several separate and distinct motions during the pendency of the mo-

tion of Mr. Rhett to lay Mr. Wise's resolution, offered on Friday last, on the table.

The Chair decided he could not entertain this question of order, pending the preliminary question as to who is to vote from New Jersey.

Mr. Petrikin then submitted the following: That it is not in order to propound a question not brought to the notice of the Chair by resolution, motion, or otherwise.

And, after debate,

Mr. Rhett moved the previous question on the preliminary question raised by the Chair, as to who shall vote from New Jersey.

The Chairman here decided that it was his opinion he was not competent to put the question on Mr. McKay's motion, nor was it within the competency of this meeting to pass upon that motion; that the motion itself, in effect, was to decide that the people of New Jersey shall not be represented on the floor of this House.

After further debate,

Mr. McKay withdrew his motion, and the amendment of Mr. William Cost Johnson fell of course.

Mr. Johnson then renewed his motion as a distinct and substantive proposition of his own; when

The Chairman again decided that the proposition could not be received or acted upon, until the preliminary question raised by the Chair, as to who shall vote from New Jersey, be decided.

Mr. Rhett moved that the preliminary question raised by the Chair do lie on the table.

At this stage of the proceeding,

The Chair stated that on the question on the motion of Mr. Rhett to lay the resolution of Mr. Wise on the table, the tellers might count all who passed between them, and report the number on each side; that if any passed, claiming to be members from New Jersey, whose seats are contested, the tellers should report their names; and that the meeting should then decide thereon: and he gave this as his decision and instruction to the tellers accordingly.

From this course and this decision Mr. Holleman, of Virginia, appealed to the meeting; when

The Chairman declared that that decision had been withdrawn.

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DECEMBER 12, 1839.

Mr. Dromgoole submitted the following resolutions, viz :

*Resolved*, That a select committee, to consist of nine, be appointed, *viva voce*, by the members of the House, to whom shall be referred all the papers in the possession of the Clerk relating to contests for seats on this floor from the State of New Jersey, and that they report thereon.

The resolution being read, Mr. Dromgoole moved the previous question.

Mr. Bell submitted the following question, as a question of order : Is the resolution moved by Mr. Dromgoole in conformity with the order of proceeding in relation to contested seats adopted yesterday on motion of Mr. Rhett ?

And which is as follows :

*“ Resolved*, That the House will proceed to call the names of gentlemen whose rights to seats are

not disputed or *contested* ; and after the names of such members are called, and before a Speaker is elected, there shall, provided there be a quorum of such present, then hear and adjudge upon the elections, returns, or qualifications of all claimants (Mr. Naylor and Mr. Ingersoll excepted) to the seats contested on the floor."

The Chairman stated that, in his opinion, it is not the intention of the resolution to limit the committee proposed to be appointed, in their proceedings, any further, or in any manner inconsistent with the order of yesterday ; if it was, it could not be carried into effect. The Chairman therefore considered the resolution in order.

Decision acquiesced in.

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DECEMBER 13, 1839.

Mr. Wise moved to amend the Journal, by putting thereon the protest of Messrs. Aycrigg and associates, of New Jersey, in form of a resolution.

The said resolution being read,

Mr. Dromgoole submitted a question of order, as follows: Is the motion of Mr. Wise in order, as it effects, by putting on the Journal, the very thing the House yesterday refused to spread on the Journal?

The Chair decided the motion of Mr. Wise to be in order.

From this decision Mr. Dromgoole appealed to the House.

And, after debate,

Mr. Davis, of Indiana, moved that the subject do lie on the table.



Mr. John Quincy Adams on the 20th instant, that the said petition be referred to the committee on Foreign Affairs, with instruction to consider and report thereon.

A division of the question on this motion having been called by Mr. Dromgoole on the 20th, the question was put on so much thereof as proposed that the petition be referred to the Committee on Foreign Affairs:

And passed in the affirmative.

The question recurred on the remainder of said motion, viz: the instructions to the committee "to consider and report thereon."

And whilst this question was under debate, Mr. John Quincy Adams was called to order by the Speaker, who decided that his remarks were irrelevant to the question before the House, and in violation of the rule of the House which declares that a member in debate "shall confine himself to the question under debate."

Objections being made to Mr. Adams's proceeding further in his speech, by Mr. Bynum,

A motion was made by Mr. Briggs that Mr. Adams have leave to proceed;

And the question being put on this motion,  
It passed in the affirmative, yeas, 114; nays, 47.

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#### JANUARY 7, 1839.

The consideration of the petition of inhabitants of West Randolph, in the county of Orange, and State of Vermont, praying Congress to recognise, in the usual form and manner, and to enter into the customary international relations with the republic of Hayti, presented by Mr. Slade on the

20th of December ultimo, and laid on the table to be taken up in its order, under the 51st rule of the House, being called for by Mr. Slade :

The Speaker decided that, according to the 51st rule which provides that petitions, memorials, and other papers shall not be debated on the day of their being presented, “ nor on any day assigned by the House for the receipt of petitions after the first thirty days of the session, unless where the House shall direct otherwise,” the said petition could not be considered at this time, this being a day assigned by the House for the receipt of petitions, (the first thirty days of the session having expired,) unless directed by a vote of the House.

A motion was then made by Mr. Slade, that the House do proceed to the consideration of said petition ;

And the question being put,  
It passed in the negative.

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JANUARY 7, 1839.

Mr. John Quincy Adams offered to present a petition, and made a “ statement of the contents thereof.”

Objection was made by Mr. Dromgoole to receiving the same, on the ground that the same was not respectful to the House.

And on the question, Shall the petition be received ?

It passed in the negative, yeas, 25 ; nays, 115.

And so the petition was not received.

Mr. Adams moved that the petition refused to be received be entered on the Journal.

Mr. Lewis moved the question of consideration.

The Chair decided that the question of consideration was debateable.

From this decision Mr. Vanderpoel took an appeal to the House : when

A motion was made by Mr. Dromgoole, that the resolution do lie on the table ;

And the question being put,

It passed in the affirmative, yeas 119 ; nays 115.

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DECEMBER 14, 1839.

Mr. Barnard, of New York, submitted the following resolution :

*Resolved*, That the execution of the order of this House, adopted yesterday, that the House do proceed to the election of Speaker, be suspended, to give opportunity, to any member who may be so disposed, to move the House that the members proceed, in the first place, to hear and adjudge, pursuant to a resolution of this House, heretofore adopted, upon the elections, returns, and qualifications of persons who appear to be contesting seats on this floor from New Jersey ; or to move that the names of John B. Aycrigg, John P. B. Maxwell, William Halsted, Charles C. Stratton, and Thomas Jones Yorke, the regular return members from the State of New Jersey, be not called, or their votes counted, in the election of Speaker ; or to move that Philemon Dickerson, Peter D. Vroom, Daniel B. Ryall, William R. Cooper, and Joseph Kille, be called, and their votes counted in *the election* of Speaker.

Mr. Craig moved the question of consideration.

**Mr. Beatty** objected to the introduction of the resolution, and submitted the following point of order, in writing :

That, under the 52d rule of the House, no motion on any other business shall be received, without special leave of the House, until the unfinished business in which the House was engaged at the last preceding adjournment shall have been disposed of.

The Chairman referred to the House the decision upon the question of order submitted by **Mr. Beatty** ;

*And, after debate,*

**Mr. Turney** moved that the resolution moved by **Mr. Barnard**, and the question of order, do lie on the table ; which motion was decided by the Chair to be in order : when

**Mr. Barnard** submitted the following question of order, in writing :

A point of order having been made, that a resolution offered by **Mr. Barnard** was not in order at this time ; pending the discussion on that point of order, **Mr. Turney** rises, and moves to lay the subject of the point of order on the table ; and also, at the same time, to lay the resolution of **Mr. Barnard** on the table. On this motion of **Mr. Turney**, **Mr. Barnard** makes this point of order : That it is not now in order to move to lay the resolution of **Mr. Barnard** on the table.

The Chairman decided against the point of order submitted by **Mr. Barnard** ;

From which decision **Mr. Fillmore** appealed to the House.

*And, after debate,*

The previous question was moved by Mr. Turney, and demanded by a majority of members; and the said previous question was put, viz: Shall the main question be now put?

And passed in the affirmative.

The main question was then stated, *i. e.* That the decision of the Chair stand as the judgment of the House; when,

Mr. Barnard withdrew the resolution moved by him to suspend the execution of the order for the election of a Speaker; and all the incidental questions arising thereon fell of course.

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DECEMBER 14, 1839.

Mr. Mercer, who voted in the affirmative of the question, moved that the House do reconsider the vote of yesterday on the proposition of Mr. Wise, "That the credentials of the following named members—John B. Aycrigg, John P. B. Maxwell, William Halsted, Charles C. Stratton, and Thomas Yorke—are sufficient to entitle them to take their seats in the House; leaving the question of contested election to be afterward decided by the House."

The Chairman decided, that as the vote proposed to be reconsidered was *a tie* vote, in consequence of which the proposition was lost, he did not consider the motion to reconsider in order. The rule provides, that "when a motion has been once made and carried in the affirmative or negative, it shall be in order for any member of the *majority* to move for the reconsideration thereof." There was no majority on either side of the question; and he did not, therefore, think the rule applied to

the case. No motion to reconsider *a tie vote* would be in order on either side.

From this decision, Mr. Mercer appealed to the House; and the previous question on the appeal was moved by Mr. Vanderpoel; and being demanded by a majority of members present, the said previous question was put, viz: Shall the main question be now put?

And passed in the affirmative.

The main question was then put, viz: Shall the decision of the Chair stand as the judgment of the House?

And passed in the affirmative, yeas 147; nays 64.



## QUESTIONS OF ORDER.

*Decided by the Speaker.*



DECEMBER 19, 1839.

Mr. Wise submitted the following:

*Resolved*, That the Committee on Elections, when appointed, inquire and report to this House who are the members elected from the State of New Jersey, in addition to Joseph F. Randolph, whose seat is not disputed; and, until the committee shall report as herein required.

*Resolved further*, That neither of the other claimants to seats in this House from New Jersey

shall be qualified, or take their seats as members from the State of New Jersey.

The said resolution was read ; when

Mr. Wise moved the previous question thereon.

Mr. William Cost Johnson then submitted the following as a question of order : That the motion to take the previous question is not in order until the rules of the House are adopted, and when there are members present who desire to be sworn in.

The Speaker decided, that, according to the parliamentary law, a previous question is in order before the adoption of particular rules for the government of the proceedings of the House.

Decision acquiesced in.

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#### JANUARY 13, 1840.

Mr. Lincoln presented to the House a petition of ladies of the town of Grafton ; a petition of women of the town of Hubbardston ; a petition of women of the town of Ashburnham ; a petition of women of the town of Shrewsbury ; and a petition of women of the town of Boylston ; all in the State of Massachusetts : which petitions, severally, pray that slavery and the slave-trade may be abolished in the District of Columbia, and in those Territories in which they exist ; and

Mr. Lincoln moved that the said petitions be referred to the Committee for the District of Columbia.

Mr. Dromgoole demanded that the question, Shall these petitions be received ? but put.

It was objected, that, as the member who pre-

sented the petitions had not moved that they be received, the question of reception was not before the House.

The Speaker decided that the presentation of a petition is, of itself, a motion that it shall be received.

From this decision Mr. Barnard took an appeal to the House, on the ground, that, under the Constitution of the United States and the rules of this House, a motion that a petition be received is not necessary on the presentation of such petition; and that no such motion in this case was made, nor is it to be inferred.

And, after debate,

The previous question was moved by Mr. Vanderpoel; and, being demanded by a majority of the members present,

The said previous question was put, viz: Shall the main question be now put?

And passed in the affirmative.

The main question was then put, viz; Shall the decision of the Chair stand as the judgment of the House?

And passed in the affirmative, yeas, 145; nays, 51.

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JANUARY 27, 1840.

A motion was made by Mr. Duncan that the House do reconsider the vote adopting the amendment proposed by Mr. Giddings.

The question on this being stated,

A motion was made by Mr. Duncan, that there be a call of the House.

The Speaker decided that it was not in order at



this stage of the proceeding to move a call of the House, seeing that the previous question had not only been seconded, but in part put; that the question which it was proposed to reconsider had been put under the operation of the previous question; and the rule says, no call shall be in order after a motion for the previous question shall have been seconded, prior to a decision of the main question.

From this decision Mr. Clifford took an appeal to the House.

And on this question, Shall the decision of the Speaker stand as the judgment of the House?

It passed in the negative; yeas, 94; nays, 100.

So the House reversed the decision, thereby deciding that a call of the House is in order after the previous question has been seconded.

[See a subsequent decision, June 5, 1840.]

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#### JANUARY 29, 1840.

The House resumed the consideration of the subject of printing, and the choice of a printer.

The question of order raised by Mr. Jameson yesterday, he now handed in, in writing; and it was read, as follows:

“The gentleman from Indiana (Mr. Davis) moved the reconsideration of a vote given on yesterday (the 27th instant) upon a resolution requiring the Clerk to contract for the printing of the House upon the cheapest terms, for the purpose of introducing another proposition on that subject, which was read to the House; the motion to reconsider was carried; that being announced by the Chair, the gentleman from Indiana (Mr. Davis) and the

gentleman from Kentucky (Mr. Graves) rose at the same time, and addressed the Speaker; the Speaker announced the gentleman from Kentucky as being entitled to the floor, and entertained a proposition from that gentleman different from the one read by the gentleman from Indiana: upon which statement of facts, the following point of order is raised, to wit: That the gentleman from Indiana was entitled to the floor, for the purpose of introducing the proposition which he announced to the House he would introduce if the motion to reconsider was carried."

The Speaker decided against the point of order raised by Mr. Jameson; and stated that he had recognised Mr. Graves as entitled to the floor, because he first caught the eye of the Speaker.

From this decision Mr. Jameson appealed to the House.

The previous question was moved by Mr. Duncan; and being demanded by a majority of the members present, it was put, viz: Shall the main question be now put?

And passed in the affirmative.

The main question was then put, viz: that the decision of the Chair stand as the judgment of the House;

And passed in the affirmative, yeas, 105; nays 92.

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JANUARY 30, 1840.

The question recurred on the proposition submitted yesterday by Mr. Graves: when

A motion was made by Mr. Rice Garland to

amend the same, by inserting therein, after the word *same*, these words :

“ And into the expediency of entirely separating the patronage of the Government from the newspaper or public press of the country.”

A question of order was raised by Mr. Vanderpoel, that the amendment proposed by Mr. Garland was not in order, for this : that Mr. Graves, who was entitled to the floor, had no right to yield it to Mr. Garland to offer his amendment ; and that, therefore, the amendment of Mr. Garland was not rightfully before the House.

The Chair decided that Mr. Graves had a right to yield the floor to Mr. Garland : but, that, when he did so, he yielded it unconditionally ; that any other member would have been entitled to succeed Mr. Garland who could obtain the floor by rising first ; that, consequently, the amendment of Mr. Garland was rightfully before the House.

From this decision Mr. Vanderpoel appealed to the House.

And, after debate,

The previous question was moved by Mr. Wise ; and being demanded by a majority of members present, it was put, viz : Shall the main question be now put ?

And passed in the affirmative.

The main question was then put ; that is, Shall the decision of the Chair stand as the judgment of the House ?

And passed in the affirmative, yeas, 126 ; nays, 71.

JANUARY 30, 1840.

The orders of the day were announced; and the Speaker decided that the first subject which came before the House was the execution of that portion of the order of the House of the 21st of December which remained unexecuted, viz: the election of a printer. The execution of this portion of said order having been postponed on the 27th ultimo to the 10th of January instant, and then prevented from being carried into effect by another special order, it was now the first subject for the action of the House.

From this decision Mr. Rice Garland appealed, on the ground, that, if an order be adopted by the House that *it will, forthwith*, or on a *particular day*, proceed to elect a printer, or other officer; but if, from accident or design, the House *omits*, or *fails*, to execute the order at the time or on the day specified in the order, the matter drops until the order is renewed.

And, after debate,

The previous question was moved by Mr. Banks; and being demanded by a majority of the members present, was put, to wit: Shall the decision of the Chair stand as the judgment of the House?

And passed in the affirmative, yeas, 135; noes, 64.

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JANUARY 30, 1840.

A motion was made by Mr. Stanly, that the House do come to the following resolution: .

*Resolved*, That the order of the House in rela.

tion to the election of a printer be postponed until the 10th day of February next.

Mr. Stanly was on the floor debating his resolution, when

A point of order was raised by Mr. Crary, in the words following:

“That the question before the House not being debateable, a nomination for the election of printer having been made,\* the motion to postpone, of the member from North Carolina, [Mr. Stanly,] is not in order.”

The Speaker decided that the motion of Mr. Stanly was in order, and that it was debateable.

From this decision Mr. Crary took an appeal to the House.

And the previous question was moved by Mr. Craig, and, being demanded by a majority of the members, was put, viz: Shall the main question be now put?

And passed in the affirmative.

The main question was put, viz: That the decision of the Speaker do stand as the judgment of the House:

And passed in the affirmative, yeas, 125; nays, 89.

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#### JANUARY 31, 1840.

The House proceeded, *viva voce*, to the choice of the committee ordered yesterday on the subject of the printing of the House; and after the votes

*Messrs. Blair & Rives* had been nominated on the 23d of *December*.

were given in, but before they were counted, or the result ascertained or reported,

A motion was made, that when the House shall adjourn to-day, it adjourn until Monday next: when

Mr. Petrikin raised the following question of order :

“It is not in order for the Speaker to entertain any motion during the division of the House, or before the result is publicly announced by the Speaker.”

The Chair (Mr. Lincoln presiding) decided that, under the 42d rule, as amended at the present session, and which provides that a motion to fix the day to which the House shall adjourn shall *be always in order*, the motion was in order.

From this decision Mr. Petrikin took an appeal to the House ;

And, after debate,

The previous question was moved by Mr. Griffin, and, being demanded by a majority of the members, it was put, viz: Shall the main question be now put ?

And passed in the affirmative.

The main question was then put, viz: Shall the decision of the Chair stand as the judgment of the House ?

And passed in the affirmative.

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FEBRUARY 19, 1840.

On the resolution from the Committee of Elections to have certain papers in the New Jersey case printed,

Mr. Petrikin submitted the following, as a question of order :

“ That neither the chairman of a committee, nor any other member of the committee, or of the House, can be permitted to allude, *on the floor*, to any thing which has taken place in committee, or in any way relate, in debate, to what was done by said committee, or by the individual members of that committee, except it is done by a written report made to the House, by authority of a majority of the committee.”

The Chair decided, generally, in favour of the question of order raised by Mr. Petrikin.

Mr. Fillmore, in debating the question before the House, made allusions to the proceedings in the Committee of Elections, and, while reading a resolution which had been adopted in that committee, was called to order by the Speaker, on the ground that a member had no right to read papers containing the proceedings of the committee, (not reported by the committee,) although the amendment under consideration proposed to print their proceedings. Mr. Fillmore then took his seat.

Mr. Adams subsequently appealed, and the Chair was sustained.

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#### FEBRUARY 21, 1840.

Mr. Fillmore rose to continue the speech he was engaged in making on the 19th instant, when he was called to order for reading a resolution which had been adopted in the Committee of Elections ; when

Mr. Petrikin, under the 28th rule, objected to *his proceeding* in his speech.

The Speaker decided that under the 28th rule Mr. Petrikin had a right to make the objection, and that Mr. Fillmore could not proceed without leave of the House.

From this decision of the Chair Mr. Bell took an appeal to the House.

The Chair was subsequently sustained.

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FEBRUARY 21, 1840.

The Speaker decided that, by the rules of the House, Friday and Saturday in every week, being set apart for the consideration of private bills and private business, in preference to any other—this day being Friday, it required a vote of two-thirds to continue the consideration of business of a public nature, (this having been the uniform decision of the Chair, and of the House, on appeals, for several years;) and that, as the vote just taken to proceed to the orders of the day was not decided in the negative by a majority of two-thirds, the consideration of the resolution reported by the Committee of Elections could not be further continued to-day, and he thereupon announced the consideration of private business.

From this decision an appeal was taken to the House by Mr. Holleman ;

And, after debate,

The question was put, Shall the decision of the Chair stand as the judgment of the House ?

And decided in the affirmative, yeas, 113 ; nays, 64.



**FEBRUARY 28, 1840.**

The private bills and business before the House having been disposed of, the Chair stated that doubts had arisen in his mind as to the mode of proceeding with the business. The morning hour for reports had expired; the rule in relation to private business had been satisfied; and the rules did not specify whether any, or what, class of public business was now in order. This, then, being a new case not satisfactorily provided for by the rules, or by the decisions under them the Chair submitted it to the House whether it was not now competent for a majority of that body to determine the business to which it would proceed.

The question was therefore submitted to the House, Is it competent for a majority now to determine what business the House will proceed to consider?

The previous question was moved by Mr. Dromgoole, and, being demanded by a majority of the members present, it was put, that the main question be now put;

And passed in the affirmative.

The main question was then put, viz: Is it competent for a majority now to determine what business the House will proceed to consider?

And passed in the affirmative, yeas, 107; noes, 66.

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**MARCH 5, 1840.**

The New Jersey election case being under consideration:

The floor, by direction of the House, was given to Mr. Petrikin; when he moved to amend the proposition of Mr. Fillmore, by striking out all after the word *whereas*, with which it commences, and inserting as follows: "It appears by the report of the Committee of Elections that Philemon Dickerson, Peter D. Vroom, Daniel B. Ryall, William R. Cooper, and Joseph Kille, received the greatest number of lawful votes cast in the State of New Jersey at the election holden in that State for Representatives in the 26th Congress:

*"Resolved*, That Philemon Dickerson, Peter D. Vroom, Daniel B. Ryall, William R. Cooper, and Joseph Kille, are entitled to take their seats in the House of Representatives as members of the 26th Congress; and that the Speaker of the House, on their presenting themselves, qualify them as such: *Provided*, That nothing herein contained shall prevent the investigation in said election from being continued, on the application of the five claimants for said seats."

On the following day, Mr. Bell submitted as a question of order:

"That the amendment of Mr. Petrikin is not in order, as it gives a direction to the report different from that proposed by Mr. Fillmore, and is different in substance."

The Speaker said, that when this question was made yesterday he supposed that Mr. Petrikin's amendment was in order, and so decided; but, upon a further examination, he was convinced that the decision was erroneous, inasmuch as Mr. Fillmore's motion to recommit had precedence over a motion to amend; and Mr. Petrikin's amendment to Mr. Fillmore's motion to recommit with in

Mr. Petrikin submitted the following, as a question of order :

“ That neither the chairman of a committee, nor any other member of the committee, or of the House, can be permitted to allude, *on the floor*, to any thing which has taken place in committee, or in any way relate, in debate, to what was done by said committee, or by the individual members of that committee, except it is done by a written report made to the House, by authority of a majority of the committee.”

The Chair decided, generally, in favour of the question of order raised by Mr. Petrikin.

Mr. Fillmore, in debating the question before the House, made allusions to the proceedings in the Committee of Elections, and, while reading a resolution which had been adopted in that committee, was called to order by the Speaker, on the ground that a member had no right to read papers containing the proceedings of the committee, (not reported by the committee,) although the amendment under consideration proposed to print their proceedings. Mr. Fillmore then took his seat.

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Mr. Petrikin, under the 28th rule, objected to his proceeding in his speech.

The Speaker decided that under the 25th rule Mr. Petrikin had a right to make the objection, and that Mr. Fillmore could not proceed without leave of the House.

From this decision of the Chair Mr. Bell took an appeal to the House.

The Chair was subsequently sustained.

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The Speaker decided that, by the rules of the House, Friday and Saturday in every week, being set apart for the consideration of private bills and private business, in preference to any other—this day being Friday, it required a vote of two-thirds to continue the consideration of business of a public nature, (this having been the uniform decision of the Chair, and of the House, on appeals, for several years;) and that, as the vote just taken to proceed to the orders of the day was not decided in the negative by a majority of two-thirds, the consideration of the resolution reported by the Committee of Elections could not be further continued to-day, and he thereupon announced the consideration of private business.

From this decision an appeal was taken to the House by Mr. Holleman ;

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The question was put, Shall the decision of the Chair stand as the judgment of the House ?

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The question was therefore submitted to the House, Is it competent for a majority now to determine what business the House will proceed to consider?

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And passed in the affirmative.

The main question was then put, viz: Is it competent for a majority now to determine what business the House will proceed to consider?

And passed in the affirmative, yeas, 107; noes, 66.

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*"Resolved*, That Philemon Dickerson, Peter D. Vroom, Daniel B. Ryall, William R. Cooper, and Joseph Kille, are entitled to take their seats in the House of Representatives as members of the 26th Congress; and that the Speaker of the House, on their presenting themselves, qualify them as such: *Provided*, That nothing herein contained shall prevent the investigation in said election from being continued, on the application of the five claimants for said seats."

On the following day, Mr. Bell submitted as a question of order:

"That the amendment of Mr. Petrikin is not in order, as it gives a direction to the report different from that proposed by Mr. Fillmore, and is different in substance."

The Speaker said, that when this question was made yesterday he supposed that Mr. Petrikin's amendment was in order, and so decided; but, upon a further examination, he was convinced that the decision was erroneous, inasmuch as Mr. Fillmore's motion to recommit had precedence over a motion to amend; and Mr. Petrikin's amendment to Mr. Fillmore's motion to recommit with in

structions, was virtually an amendment of the report itself. But the amendment having been received and entertained the day before, it was now too late to raise the question of order.

Decision acquiesced in.

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MARCH 6, 1840.

A motion was made by Mr. Fillmore, that the House do reconsider the vote referring the said depositions to the Committee of Elections; and he was debating this motion, when

Mr. Petrikin submitted the following question of order:

“That a motion to reconsider cannot be debated and considered after the Speaker has announced the orders of the day, on any day allotted for the consideration of private bills, except such motion of reconsideration pertains to a question within the rules setting aside Friday and Saturday for private bills.”

The Speaker decided that the House, by general consent, having received and referred the papers, the motion to reconsider that reference was in order, and superseded the orders of the day, until it should be disposed of.

From this decision Mr. Petrikin took an appeal to the House.

A motion was made by Mr. Holeman, that the appeal do lie on the table: when

Mr. Fillmore submitted as a question of order, whether it is in order to make a motion that the appeal do lie on the table.

The Speaker decided that the motion, that the appeal do lie on the table, was in order.

From this decision Mr. Fillmore took an appeal to the House.

Mr. Banks moved that the appeal of Mr. Fillmore do lie on the table.

And the question being put,

It passed in the affirmative, yeas, 97 ; nays, 76.

On inquiry, the Chair decided that the vote to lay Mr. Fillmore's appeal on the table took with it the original proposition to reconsider, and all pending motions.

From this decision Mr. Fillmore appealed in writing, as follows :

" Mr. Fillmore had the floor, and was speaking on a motion to reconsider a vote of the House.— He was called to order : the Speaker decided he was in order. From this decision an appeal was taken. A motion was then made to lay that appeal on the table : on this a question was raised, whether the motion to lay on the table was in order? The Speaker decided it was. And on this an appeal was taken, and a motion was made to lay this appeal on the table; which was put and carried. The Speaker now decides that by this vote the original motion to reconsider is laid on the table, and that Mr. Fillmore is deprived of his right to proceed in the debate. From this decision Mr. Fillmore appeals, insisting that the original judgment of the Chair stands, as it is not reversed ; and that he is entitled to the floor, on the original motion to reconsider.

And, after debate,

The Speaker said that, during the debate upon this appeal, he had found previous decisions that appeals were independent questions ; whereupon



he reviewed his decision, and decided that, in conformity to the previous practice of the House, the laying the appeal on the table did not carry with it the whole subject; and he therefore stated that the question now before the House was upon the motion of Mr. Holleman that the appeal of Mr. Petrikin do lie on the table.

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MARCH 9, 1840.

Mr. Smith, of Vermont, in pursuance of notice heretofore given, moved for leave to introduce a bill to repeal a part of the second section of an act to alter and amend the several acts imposing duties on imports; and, debate arising, the Speaker decided that all propositions giving rise to debate to-day, while resolutions are being called for, must lie over, under the rule.

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MARCH 10, 1840.

The House resumed the consideration of the report of the Committee of Elections on the New Jersey election.

The questions pending on the 5th instant, were—

On Mr. Fillmore's proposition to recommit;

On Mr. Petrikin's proposition to amend Mr. Fillmore's proposition; and

On Mr. Petrikin's motion for the previous question.

The previous question being pending, Mr. Petrikin modified his amendment, by inserting therein after the word *that*, where it occurs the first time these words, viz: "*prima facie*, upon the evidence in possession of the committee"

Mr. Lincoln raised the question—Is it in order to modify the amendment, pending the motion for the previous question ?

The Speaker decided it was in order.

From this decision Mr. Lincoln took an appeal ; when

Mr. Petrikin withdrew the modification.

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### MARCH 24, 1840

In pursuance of notice heretofore given, Mr. Rariden asked leave to introduce a bill for the continuation of the Cumberland road in the States of Ohio, Indiana, and Illinois.

Mr. Dromgoole objected to the putting the question on the motion for leave at this time, on the ground that he wished to debate it.

The Speaker decided that a motion for leave to introduce a bill on a day set apart by the rules for the reception of resolutions, must be subject to the restrictions and limitations contained in the rule in regard to resolutions. The rule provides that resolutions which shall give rise to debate shall lie over for discussion, under the rules ; and therefore it was, he decided that the motion for leave, if objected to, and debate arising thereon, must lie over, as in the case of resolutions.

Mr. Rariden appealed ; and subsequently, on the 6th of April, the decision of the Chair was sustained.

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### APRIL 27, 1840.

During a call of the House, a motion was made that the House take a recess.

A question was raised whether, pending a call, it is in order to take a recess?

The Speaker decided that it was not in order to take a recess pending a call, unless it were by unanimous consent of those present.

From this decision Mr. Holleman appealed; and on the question being put, the decision of the Chair was affirmed.

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MAY 20, 1840.

Mr. Crary, from the Committee on the Public Lands, to which was referred the bill from the Senate (No. 12) entitled "An act supplemental to the act entitled 'An act to grant pre-emption rights to settlers on the public lands,' approved June 22, 1838," reported the same without amendment, with a recommendation that the said bill do not pass.

A motion was made by Mr. White, of Kentucky, that the said bill be committed to the Committee of the Whole House on the state of the Union.

A motion was made by Mr. Lewis Williams, that the said bill be committed to a Committee of the Whole House to-morrow.

The previous question was moved; when

The Speaker stated, and so decided, that, if the previous question were sustained, the main question would be on the commitment of the bill.

From this decision Mr. Casey took an appeal to the House: when

On the next day the Speaker reviewed this decision, and decided, that if the previous question

were sustained, the question would be upon ordering the bill to be read a third time.

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MAY 27, 1840.

A motion was made by Mr. Alford that the House do reconsider the vote of yesterday on the passage of the bill from the Senate (No. 12) entitled "An act supplemental to the act entitled 'An act to grant pre-emption rights to settlers on the public lands,' approved June 22, 1838."

Mr. Jameson stated that he understood that the bill had been taken by the Clerk to the Senate, in which House it originated, and was, consequently, now beyond the control of this House; and, therefore, the motion to reconsider could not be entertained.

The Speaker decided that the motion to consider was in order, under the 50th rule, which provided that, "when a motion has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof on the same or the succeeding day."

From this decision Mr. Petrikin took an appeal to the House.

The previous question was moved by Mr. William Cost Johnson, demanded, and put, viz: Shall the main question be now put?

And carried in the affirmative.

The main question was then put, viz: That the decision of the Chair do stand as the judgment of the House;

And passed in the affirmative.

And while the question of reconsideration was under debate,

Mr. Burke, from the Committee on Enrolled Bills, reported that the committee had examined the enrolled bill (No. 12) entitled "An act supplemental to an act entitled 'An act to grant pre-emption rights to settlers on the public lands,' approved June 22, 1838," (being the bill, the reconsideration of the vote on the passage of which was under discussion,) and found the same to be truly enrolled.

The Speaker said he should decline to sign said bill until the motion to reconsider was settled.

And, after further debate on the motion of Mr. Alford, the previous question was moved by Mr. Chapman, of Alabama.

The House subsequently refused to reconsider the said vote.

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JUNE 1, 1840.

This being the day for resolutions, Mr. Albert Smith rose and inquired if resolutions were in order from Maine. The Speaker replied that they were; and then

Mr. Smith, as a member for Maine, submitted the following resolution, (notice of which had been given by Mr. Atherton on the 30th of May ultimo:)

*Resolved*, That so much of the 127th rule of the House as is in the following words, to wit: "Nor shall any rule be suspended except by a vote of at least two-thirds of the members pre-

sent," be, and hereby is, so far rescinded and changed, that the House may, at any time, by a vote of a majority of the members present, suspend the rules and orders of the House for the purpose of going into Committee of the Whole on the state of the Union.

The previous question was moved by Mr Smith.

Objection was made to the right of Mr. Smith to move this resolution.

The Speaker decided, that as this was the resolution a notice of which had been given by Mr. Atherton, of New Hampshire, on the 30th of May ultimo, it was not competent for any other member to move it; thereby to take from the member from New Hampshire the control which the rules gave him over his resolution.

(At this stage of the proceeding, Mr. Atherton rose and gave his assent to the introduction of the resolution by Mr. Smith.)

From the decision of the Chair, as stated above, Mr. Smith of Maine took an appeal to the House;

And on the question, Shall the decision of the Chair stand as the judgment of the House?

It passed in the negative, yeas, 89; nays, 92.

So the House having decided that Mr. Smith had a right to move the said resolution,

The Speaker was about to divide the House, to ascertain whether the previous question was demanded; when

Mr. Bell submitted the following as a question of order:

The gentleman from Maine offered a resolution; and, before it was read or stated from the

Chair, moved the previous question. The point of order was, that it was not in order to offer a resolution, and move the previous question, before it was read or stated from the Chair.

The Speaker stated that it was in conformity with the former decision and practice of the House to move the previous question when the resolution was moved; for the reason, that the member who offered the resolution was entitled to the floor upon it before any other could claim it; and therefore it saved time, without violating the rights of any other member to enable him to move the resolution, and call the previous question at the same instant, without going through the form of announcing the proposition, before the floor was given him to demand the previous question upon it.

An appeal was taken from this decision; and on the question, Shall the decision of the Chair stand as the judgment of the House?

It passed in the affirmative, yeas, 118; nays, 85.

### THE SAME DAY.

Mr. Bell demanded that the question (Will the House now consider the resolution?) be put; and stated that he desired to debate the resolution; and he then also demanded that, under the 22d rule, which provides that "all resolutions that give rise to debate shall lie over for discussion, under the rules of the House," this resolution should lie over.

The Speaker decided that the call for the previous question did not deprive the member of his right to demand the question of consideration on

the resolution ; and that, as the question of consideration was demanded, the resolution must lie over in accordance with the decision at the last session (28th January, 1839,) on a proposition introduced by Mr. Grant, who, at the time of introducing the same, also moved the previous question ; when, the question of consideration being raised, it was decided that the proposition must lie over, under the rule, and it was laid over accordingly.

From this decision Mr. Smith, of Maine, took an appeal.

And the question was put, Shall the decision of the Chair stand as the judgment of the House ?

And passed in the negative, yeas, 94 ; nays, 114.

### THE SAME DAY.

Mr. Proffit moved to reconsider the vote adopting the said resolution ; and was proceeding to debate the motion to reconsider, when

Mr. Bell raised a question of order : that the question of reconsideration could not now be debated, but must lie over, under the 22d rule, which directs that all resolutions introduced on a day set apart for resolutions (this being one of those days) which shall give rise to debate, shall lie over for discussion, under the rules.

The Speaker decided, that under the 50th rule it was now in order to debate the motion to reconsider.

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JUNE 5, 1840.

*On motion of Mr. McKay, the rules were sus-*



pended for the purpose of enabling him to introduce a resolution, which he offered accordingly. (See Journal, page 1080.)

The said resolution was read.

And, after debate,

The previous question was moved by Mr. McKay, and demanded by a majority ;

And then a motion was made by Mr. Andrews, that the House do reconsider the vote on suspending the rule.

Mr. Dromgoole then submitted the following question of order :

“Can a member make that motion after the previous question has been demanded, and between the demand and the putting the previous question ?”

The Speaker decided that it was in order to make the motion.

From this decision Mr. Dromgoole took an appeal.

And on the question, that the decision of the Chair stand as the judgment of the House ?

It passed in the negative, yeas 78 ; nays, 85.

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JULY 2, 1840.

The House resumed the consideration of the bill from the Senate (No. 299) entitled “An act to continue the corporate existence of the banks in the District of Columbia for two years, with certain restrictions.”

The question recurred on the engrossment of the amendments, and the third reading of the bill ;  
*when*

A motion was made by Mr. Boyd that the bill do lie on the table; when

A call of the House was moved.

The Chair (Mr. Briggs officiating) decided that, as the present proceedings on the bill were under the operation of the previous question, it was not in order to move a call of the House.

From this decision Mr. John Quincy Adams took an appeal.

And on the question, Shall the decision of the Chair stand as the judgment of the House?

It passed in the affirmative, yeas, 105; nays, 34.

A similar decision was reversed, (see Journal, page 233.)

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JULY 10, 1840.

A motion was made by Mr. Clifford to reconsider the vote of yesterday, by which the House rejected Senate resolution (No. 16) authorising the President to accept certain presents from the Imaum of Muscat and the Emperor of Morocco, and to dispose of the same.

The previous question was subsequently demanded by a majority of the members present, and was put, viz: Shall the main question be now put?

And passed in the affirmative.

The main question was then stated: That the House do reconsider the vote moved to be reconsidered by Mr. Clifford; whereupon

Mr. John Quincy Adams submitted the following resolution:

*Resolved*, That the Clerk of this House, by delivering, privately, a resolution from the Senate,

which had been acted upon by this House, to be returned to the Senate, to a member of this House, thereby retaining it from the Senate, has violated his official duty as Clerk of the House.

In answer to an inquiry whether this resolution was open to debate, seeing that the previous question had been ordered on the motion to reconsider,

The Chair stated that this, being a question of privilege, suspended the motion to reconsider, and was open to debate.

From this decision Mr. Turney took an appeal to the House.

And the question was put, Shall the decision of the Chair stand as the judgment of the House?

And passed in the affirmative, yeas, 86; nays, 66.



## QUESTIONS OF ORDER

*Decided at the Second Session of the Twenty-Sixth Congress.*

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DECEMBER 23, 1840.

Mr. James offered to present a petition, the contents of which he briefly stated, and sent the same to the Speaker; who decided that the prayer thereof came within the 21st rule of the House, and that it could not be received.

Decision acquiesced in.

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DECEMBER 31, 1840.

Mr. Toland offered to present a petition, the

contents of which he briefly stated to be a prayer for the amendment of the constitution of the United States, in relation to slavery ; and sent the same to the Speaker, who decided that the prayer thereof came within the 21st rule of the House and that it could not be received.

Mr. Toland appealed from the decision of the Speaker.

And the question being put,

Shall the decision of the Chair stand as the judgment of the House ?

It passed in the affirmative.

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JANUARY 9, 1841.

The resolution introduced by Mr. John Quincy Adams on the 23d ultimo came up for consideration, and was read as follows, viz :

*Resolved*, That the Postmaster General be directed to report to this House the names of all the postmasters throughout the Union who have been *removed* from office since the 3d day of March, 1829, with the names of the persons appointed in their places ; *underscoring* the names of all those removed for official delinquency or misdemeanor ; and specifying the nature thereof, the complaint upon which the removal was made, the evidence in support of such complaint, and whether the officer removed was made acquainted with the complaint, confronted with his accuser, or allowed to be heard in his defence.

A motion was made by Mr. Hopkins to amend the same resolution, by adding thereto the following :

**Resolved,** That the power of removing officers is vested in the President of the United States.

**Resolved,** That this power was conferred to enable him (the Executive) "to take care that the laws are faithfully executed," and cannot be exercised arbitrarily or capriciously, without an abuse of power, tyrannical in its operation, corrupting in its tendency, and converting a remedy for unworthiness and misconduct into a terrible engine of Executive power.

**Resolved,** That the patronage of the Executive Department has increased to an alarming extent, and ought to be restricted and diminished so far as is compatible with a safe and faithful execution of the laws.

**Resolved,** That it is the right of the representatives of the people to examine into all abuses and usurpations which may be apprehended to exist in any of the Executive departments, in order that they may be corrected and prevented, if possible, by legislation; and, in flagrant and wanton cases, exposed and punished.

**Resolved,** That the power of appointment and of removal from office, vested in the Executive, may be greatly abused; and its exercise ought, therefore, to be watched and strictly guarded, so as, if possible, "to prevent the power and patronage of the Executive from being brought into conflict with the freedom of elections."

**Resolved,** That the representatives of the people have a right to inquire into the causes for which any Executive officer has been removed or dismissed from office by the Executive.

**Resolved,** That, in prosecuting such inquiry,

the House of Representatives has a right to call for, and have furnished to it, all official documents, papers, and letters, relating to the removal of such officer, which may be on file among the records of any of the Executive departments.

*Resolved*, That a select committee be appointed, whose duty it shall be to inquire and report a bill imposing such restrictions upon Executive patronage as may be consistent with the foregoing resolutions, and compatible with the constitution of the United States, and so as more effectually to guard against abuse and corruption in the exercise of the power of removal from, and appointment to, office.

Mr. John Quincy Adams submitted a question of order: Is the said amendment, proposed by Mr. Hopkins, in order?

The Chair decided that the said amendment was in order.

From this decision Mr. Adams took an appeal to the House.

A motion was made by Mr. Banks, that the said appeal do lie upon the table;

And the question being put,

It was decided in the affirmative, yeas, 95; nays, 80.

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JANUARY 21, 1841.

Mr. John Quincy Adams presented a petition of inhabitants of Alleghany county, in the State of Pennsylvania, praying for the abolition of slavery in the District of Columbia and the Territories; for the discontinuance of the "inter-State" slave-trade; and for the passage of a resolution refusing

to admit any State into the Union whose constitution permits slavery; and moved that the said petition be referred to the Committee on the Territories.

The Speaker decided that, under the 21st rule, so much only of said petition as relates to the admission of a State into the Union, whose constitution permits slavery, could be received.

On motion of Mr. Connor, so much of said petition as was received was laid upon the table.

Mr. Adams presented a petition of inhabitants of the town of Perrinton, in the State of New York, praying for the abolition of slavery and the slave-trade in the District of Columbia, and the slave-trade between the several States; and that no new State may be admitted into the Union whose constitution tolerates slavery; and moved that the said petition be referred to the Committee on the Territories.

Mr. Banks moved that it do lie on the table.

And, pending the question on this motion.

A motion was made by Mr. Connor that the vote by which that portion of the petition of inhabitants of Alleghany county, Pennsylvania, this day presented by Mr. Adams, was laid upon the table, be reconsidered.

And the question being put, Will the House reconsider the said vote?

It passed in the affirmative, yeas, 104; nays, 50.

The said vote being reconsidered,

The question recurred on the motion of Mr.

Connor, that so much of said petition as was received be laid on the table; when

Mr. Connor withdrew said motion.

A motion was then made by Mr. Black, that the said petition be rejected.

The Chair stated, and so decided, that as only so much of said petition as prays for the passage of a resolution refusing to admit any State into the Union whose constitution admits slavery had been received by the House, a motion to reject the *whole* petition was not in order.

Mr. Black appealed from so much of said decision of the Chair as admitted *any portion* of said petition to be received by the House.

And, pending the question on the appeal, the hour set apart for calling the States for petitions expired.

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#### FEBRUARY 1, 1841.

The House, in further execution of the special order of the 14th ultimo, resolved itself into the Committee of the Whole House on the state of the Union; and, after some time spent therein, the Speaker resumed the chair, and Mr. Casey reported that the committee had, according to order, had the state of the Union generally under consideration, particularly the bill (No. 598) to authorize the issuing of Treasury notes, and had come to no resolution thereon.

Under a decision of the Speaker, that it was in order, as relating to the special order now under consideration,



Mr. Fillmore introduced the following resolution, viz :

Whereas, the bill of this House (No. 598) entitled "An act to authorize the issuing of Treasury notes," was taken up in Committee of the Whole House on the state of the Union on the 18th day of January last, and has been under discussion to this time :

And whereas, much of the indispensable public business is yet to be acted on : therefore,

*Resolved*, That said committee be discharged from the further consideration of said bill from and after the 2d day of February instant, at three o'clock, P. M., unless the same shall be reported to the House before that time ; and that said bill, with such amendments (if any) as shall have been adopted in said committee, shall be then taken up in the House, and be the special order until finally disposed of ; reserving to said committee the right, according to the rules of the House, to report the same sooner if the discussion shall terminate.

Which was read ; and the question was stated, Will the House agree to the same ? when,

Pending the said question,

At 10 minutes after 4 o'clock, P. M., on motion of Mr. Wise, the House adjourned until to-morrow, at 12 o'clock meridian.

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### FEBRUARY 2, 1841.

The Speaker stated to the House, that, upon reviewing his decision of yesterday, that the resolution offered by Mr. Fillmore could be receiv-

ed without a suspension of the rules, he had come to a different conclusion ; and, thereupon,

A motion was made by Mr. Fillmore, that the rules in relation to the order of business be suspended, to enable him to introduce the said resolution.

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FEBRUARY 24, 1841.

The following amendment was read by the Clerk, as an entire amendment to the bill (H. R. 601) making appropriations for the civil and diplomatic expenses of the Government for the year 1841, viz :

Strike out the following words from the 414th line of the bill, to the 436th line of the bill, viz :

“That the district attorneys of the United States, in and for the several districts, the clerks and marshals, respectively, of the same, shall render an account quarter-yearly, each and every year hereafter, to the Secretary of the Treasury, of all fees, emoluments, and receipts, of every name and nature whatever by them respectively received by virtue of their said offices ; which account shall be rendered upon oath or affirmation, and shall be in such form, and supported by such proofs, as the Secretary of the Treasury in his judgment may prescribe, for the purpose of enforcing the provisos hereinafter named, that is to say : If it shall appear that the salaries, fees, emoluments, receipts, and earnings, of any of the said attorneys, shall exceed the sum of

dollars, then such attorneys shall pay such excess into the Treasury of the United

States, for general purposes of the Government; and if the salaries, fees, emoluments, or earnings of any of said clerks shall exceed dollars, then the excess shall, in like manner, be paid into the Treasury, for the purposes aforesaid; and if the salaries, earnings, fees, and emoluments, of any of the said marshals shall exceed the sum of dollars, then such excess shall also be paid into the Treasury, for purposes aforesaid."

And insert, in lieu thereof, the following, viz :

"That hereafter, in lieu of all fees, emoluments, and receipts, now allowed, it shall and may be lawful for the United States clerks, attorneys, counsel, and marshals, in the district and circuit courts of the United States in the several States, to demand and receive the same fees that now are, or hereafter may be, allowed by the laws of the said States respectively where said courts are held, to the clerks, attorneys, counsel, and sheriffs, in the highest courts of the said States in which like services are rendered; and no other fees or emoluments, except that the marshals shall receive in full, for summoning all the jurors for any one court, thirty dollars; and shall receive, for every day's actual attendance at any court, five dollars per day; and for any services, including the compensation for mileage, performed by said officers in the discharge of their official duty, for which no compensation is provided by the laws of said States, respectively, the said officers may receive such fees as are now allowed by law, according to *the existing usage and practice of said courts of the United States*; and every district attorney, ex-

cept the district attorney of the southern district of New York, shall receive, in addition to the above fees, a salary of two hundred dollars per annum: *Provided*, That the fees and emoluments retained by the district attorneys, marshals, and clerks, shall in no case exceed, for the district attorney, and the marshals, or either of them, the sum of six thousand dollars; and those for each of the clerks shall not exceed, in any case, four thousand five hundred dollars; the overplus of fees and emoluments to be paid into the public Treasury, under such rules and regulations as may be prescribed by the Secretary of the Treasury, subject to the disposition of Congress."

Mr. Granger called for a division of the question, and that the part proposed to be inserted be divided so as to take the question: *first*, on all that part preceding the proviso; and, *second*, on the proviso.

Mr. Bell, chairman of the Committee of the Whole House on the state of the Union, who reported the bill, stated that the amendment of the gentleman from Mississippi, (Mr. Thompson,) in Committee of the Whole on the state of the Union, was to amend the proviso in the bill, by striking out all after the words "Provided, however," and inserting so much of the amendment reported by the committee as precedes the proviso; and that the proviso reported by the committee was offered and adopted as an amendment to the amendment which had been adopted by the committee; and, for that reason, the two parts of the amendment were to be treated as distinct propositions, and therefore divisible.

The Speaker decided, on the facts as stated by the chairman of the committee, that the two parts of the amendment were to be treated as separate questions, and that it would be divided accordingly.

From this decision of the Chair Mr. Wise took an appeal to the House, on the ground that the committee had reported the amendment, as an *entire* amendment, to strike out and insert.

And the question was put,

Shall the decision of the Chair stand as the judgment of the House?

And passed in the affirmative, yeas, 98; nays, 89.

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#### FEBRUARY 26, 1841.

The House proceeded to the consideration of bill No. 544, in Committee of the Whole House on the state of the Union; and, after some time spent therein, the Speaker resumed the chair, and Mr. McKay reported that the committee had, according to order, had the state of the Union generally under consideration, particularly the bill (No. 544) making appropriations for the naval service for the year 1841, and had directed him to report the same, without amendment.

The question was stated, Shall the bill be engrossed and read a third time? when

Mr. Evans moved the following amendments, viz:

In the 13th line thereof, strike out "one million four hundred and twenty-five thousand," and insert *two millions*.

In line 18, strike out "fifteen," and insert *twenty-five*.

In line 20, strike out "twenty-five thousand two hundred," and insert *forty-two thousand*.

In line 23, strike out "forty-six thousand eight hundred," and insert *seventy-eight thousand*.

In line 25, strike out "five thousand four hundred," and insert *nine thousand*.

In line 27, strike out "six thousand six hundred," and insert *eleven thousand*.

In line 30, strike out "twenty-nine thousand four hundred," and insert *fifty-nine thousand*.

In line 32, strike out "twelve," and insert *twenty*.

Mr. Dromgoole raised a question of order, whether it was in order to offer a series of amendments at one time.

The Speaker decided that it was not in order to offer more than one amendment at a time, and that the foregoing amendments were not in order.

From this decision Mr. Evans appealed; and, pending the question on said appeal,

The House adjourned.

On the succeeding day Mr. Evans withdrew his appeal, and the decision of the Speaker was acquiesced in.



## EXECUTIVE GOVERNMENT.

---

**JOHN TYLER**, Virginia, President.

**DANIEL WEBSTER**, Massachusetts, Secretary of State.

**WALTER FORWARD**, Pennsylvania, Secretary of Treasury.

**JOHN C. SPENCER**, New York, Secretary of War.

**A. P. UPSHUR**, Virginia, Secretary of Navy.

**CHARLES A. WICKLIFFE**, Kentucky, Post-Master General.

**HUGH S. LEGARE**, South Carolina, Attorney General.



# LIST OF MEMBERS

## OF THE

### TWENTY-SEVENTH CONGRESS.

---

**SAMUEL L. SOUTHARD**, of New Jersey, President of the Senate.

**Asbury Dickens**, Secretary of the Senate.

#### SENATORS.

##### *Maine.*

**Ruel Williams,**  
**George Evans,**

##### *Vermont.*

**Samuel Prentiss,**  
**Samuel S. Phelps,**

##### *Connecticut.*

**Perry Smith,**  
**J. W. Huntington,**  
*Rhode Island.*

**Nathan F. Dixon,**  
**James F. Simmons,**  
*New York.*

**Silas Wright,**  
**Nathaniel P. Tallmadge,**  
*New Jersey.*

**Samuel L. Southard,**  
**Jacob W. Miller,**  
*Pennsylvania.*

**James Buchanan,**  
**Daniel Sturgeon,**  
*Delaware.*

**Richard H. Bayard,**  
**Thomas Clayton,**  
*Maryland.*

**William D. Merrick,**  
**John Leeds Ke ,**  
*Virginia.*

**William C. Rives,**  
**William S. Archer,**

##### *Massachusetts.*

**Isaac C. Bates,**  
**Rufus Choate,**

##### *New Hampshire.*

**Franklin Pierce,**  
**Levi Woodbury,**

##### *Alabama.*

**William R. King,**  
**Vacancy.**

##### *Mississippi.*

**John Henderson,**  
**Robert J. Walker,**

##### *Louisiana.*

**Alexander Mouton,**  
**Alexander Barrow,**

##### *Arkansas.*

**Ambrose H. Sevier,**  
**William S. Fulton,**

##### *Missouri.*

**Lewis F. Linn,**  
**Thomas H. Benton,**

##### *Kentucky.*

**Henry Clay,**  
**James T. Morehead,**

##### *Ohio.*

**William Allen,**  
**Benjamin Tappan,**

##### *Indiana.*

**Oliver Smith,**  
**Albert S. White,**

*North Carolina.*

William A. Graham,  
Willie P. Mangum,

*South Carolina.*

William C. Preston,  
John C. Calhoun,

*Georgia.*

Alfred Cuthbert,  
John M'Pher. Berrein,

*Illinois.*

Richard M. Young,  
Samuel M'Roberts,

*Tennessee.*

A. O. P. Nicholson,  
[Vacancy.]

*Michigan.*

Augustus S. Porter,  
William Woodbridge,

## REPRESENTATIVES.

JOHN WHITE, of Kentucky, Speaker.

MATTHEW ST. CLAIR CLARKE, Clerk.

*Maine.*

Elisha H. Allen  
David Bronson  
Nathan Clifford  
William P. Fessenden  
Nathaniel S. Littlefield  
Joshua A. Lowell  
Alfred Marshall  
Benjamin Randall—8.

*New Hampshire.*

Charles G. Atherton  
Edmund Burke  
Ira A. Eastman  
John R. Reding  
Tristram Shaw—5.

*Massachusetts.*

John Quincy Adams  
Osmyn Baker  
Nathaniel B. Borden  
George N. Briggs  
Barker Burnell  
William B. Calhoun  
Caleb Cushing  
William S. Hastings  
Charles Hudson  
William Parmenter

Leverett Saltonstall  
Robert C. Winthrop—12

*Rhode Island.*

Robert B. Cranston  
Joseph L. Tillinghast—2.

*Connecticut.*

William W. Boardman  
John H. Brockway  
Thomas B. Osborne  
Truman Smith  
Joseph Trumbull  
Thomas W. Williams 6.

*Vermont.*

Horace Everett  
Hiland Hall  
John Mattocks  
William Slade  
Augustus Young—5.

*New York.*

Alfred Babcock  
Daniel D. Barnard  
Victory Birdseye  
Bernard Blair  
Samuel S. Bowne  
David P. Brewster  
Timothy Childs

Thomas C. Chittenden

Staley N. Clarke

John C. Clark

James G. Clinton

Richard D. Davis

Andrew W. Doig

Joseph Egbert

Charles G. Ferris

Millard Fillmore

John G. Floyd

Charles A. Floyd

A. Lawrence Foster

Seth M. Gates

Samuel Gordon

Francis Granger

Jacob Houck, jr.

Hiram P. Hunt

Archibald L. Linn

Robert McClellan

John McKeon

John Maynard

Christopher Morgan

William M. Oliver

Samuel Partridge

Lewis Riggs

James I. Roosevelt

John Sanford

Thomas A. Tomlinson

John Van Buren

Henry Van Rensselaer

Aaron Ward

Fernando Wood

John Young—40.

*New Jersey.*

John B. Aycrigg

William Halsted

John P. B. Maxwell

Joseph F. Randolph

Charles C. Stratton

Thomas Jones Yorke 6.

*Pennsylvania.*

Henry W. Beeson

Benjamin A. Bidlack

Charles Brown

Jeremiah Brown

James Cooper

Davis Dimock, jr.

John Edwards

Joseph Fornance

James Gerry

Amos Gustine

Thomas Henry

Charles J. Ingersoll

Joseph R. Ingersoll

James Irvin

William W. Irwin

William Jack

Francis James

George M. Keim

Joseph Lawrence

Albert G. Marchand

Peter Newhard

Arnold Plumer

Robert Ramsey

William Simonton

John Snyder

George W. Toland

John Westbrook

Vacancy.—28.

*Delaware.*

George B. Rodney 1

*Maryland.*

William Cost Johnson

Isaac D. Jones

John P. Kennedy

John Thompson Mason

James A. Pearce

Alexander Randall

Augustus R. Sollers

James W. Williams 8.

*Virginia.*

Richard W. Barton  
 John M. Botts  
 George B. Cary  
 Walter Coles  
 Thomas W. Gilmer  
 William L. Goggin  
 William O. Goode  
 William A. Harris  
 Samuel L. Hays  
 George W. Hopkins  
 Robert M. T. Hunter  
 Edmund W. Hubard  
 John W. Jones  
 Francis Mallory  
 Cuthbert Powell  
 Lewis Steenrod  
 Alexander H. H. Stuart  
 George W. Summers  
 John Taliaferro  
 Henry A. Wise  
 Wm. Smith—21.

*North Carolina.*

Archibald H. Arrington  
 Green W. Caldwell  
 John R. J. Daniel  
 Edmund Deberry  
 James Graham  
 James J. McKay  
 Kenneth Rayner  
 Abraham Rencher  
 Romulus M. Saunders  
 Augustine H. Shepperd  
 Edward Stanly  
 William H. Washington  
 Lewis Williams—13.

*South Carolina.*

Sampson H. Butler  
 William Butler  
 Patrick C. Calhoun

John Campbell  
 Isaac E. Holmes  
 Francis W. Pickens  
 R. Barnwell Rhett  
 James Rogers  
 Thomas D. Sumter—9.

*Georgia.*

Thomas F. Foster  
 Roger L. Gamble  
 Richard W. Habersham  
 Thomas Butler King  
 James A. Meriwether  
 Lott Warren

[3 vacancies.]—9.

*Kentucky.*

Landaff W. Andrews  
 Linn Boyd  
 William O. Butler  
 Garrett Davis  
 Willis Green  
 Thomas F. Marshall  
 Bryan Y. Owsley  
 John Pope  
 James C. Sprigg  
 John B. Thompson  
 Philip Triplett  
 Joseph R. Underwood  
 John White, Speaker—13.

*Tennessee.*

Thomas D. Arnold  
 Aaron V. Brown  
 Milton Brown  
 William B. Campbell  
 Thomas J. Campbell  
 Robert L. Caruthers  
 Meredith P. Gentry  
 Cave Johnson  
 Abraham McClellan

Hopkins L. Turney  
 Harvey M. Watterson  
 Christopher H. Williams  
 Joseph L. Williams—13.

*Ohio.*

Sherlock J. Andrews  
 Benjamin S. Cowen  
 Ezra Dean  
 William Doan  
 Joshua R. Giddings  
 Patrick G. Goode  
 John Hastings  
 Samson Mason  
 Joshua Mathiot  
 James Mathews  
 William Medill  
 Calvary Morris  
 Jeremiah Morrow  
 Nathaniel G. Pendleton  
 Joseph Ridgway  
 William Russell  
 Samuel Stokely  
 George Sweeny  
 John B. Weller—19.

*Louisiana.*

John B. Dawson  
 John Moore  
 Edward D. White —3.

*Indiana.*

James H. Cravens  
 Andrew Kennedy  
 Henry S. Lane  
 George H. Proffit

Richard W. Thompson  
 David Wallace  
 Joseph L. White—7.

*Mississippi.*

William M. Gwynn  
 Jacob Thompson—2

*Illinois.*

Zadock Casey  
 John Reynolds  
 John T. Stewart—3.

*Alabama.*

Reuben Chapman  
 George S. Houston  
 Dixon H. Lewis  
 William W. Payne  
 Benjamin G. Shields—5.

*Missouri.*

John C. Edwards  
 John Miller—2.

*Arkansas.*

Edward Cross—1.

*Michigan.*

Jacob M. Howard—1.

TERRITORIES.

*Florida.*

David Levy—1.

*Wisconsin.*

Henry Dodge—1.

*Iowa.*

A. C. Dodge—1.





**DECLARATION**  
**OF**  
**I N D E P E N D E N C E .**

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**IN CONGRESS, JULY 4, 1776.**

**THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED  
STATES OF AMERICA.**

**WHEN**, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal ; that they are endowed by their Creator, with certain unalienable rights ; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed ; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such forms, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that *governments long established, should not be changed* for light and transient



## DECLARATION OF

causes; and, accordingly, all experience has shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present King of Great Britain, is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from *the depository* of their public records, for the sole *purpose of fatiguing them into compliance with his measures.*

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasion on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise; the state remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries

He has erected a multitude of new offices, and sent hither swarms of officers to harrass our people, and eat out their substance.

He has kept among us, in time of peace, standing armies, without the consent of our Legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction, foreign to our constitution, and unacknowledged by our laws; giving his assent to *their acts of pretended legislation.*

## DECLARATION OF

For quartering large bodies of armed troops among us.

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states.

For cutting off our trade with all parts of the world.

For imposing taxes on us without our consent.

For depriving us, in many cases, of the benefits of trial by jury.

For transporting us, beyond the seas, to be tried for pretended offences.

For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument, for introducing the same absolute rule into these colonies.

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the powers of our government.

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of *death, desolation, and tyranny* already began, with *circumstances of cruelty and perfidy, scarcely*

parallel in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections among us; and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions, we have petitioned for redress, in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them from time to time, of attempts made by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connexions and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must therefore acquiesce in the necessity which denounces our separation, and hold them, as we

do the rest of mankind—enemies in war—in peace friends.

WE, therefore, the representatives of the United States of America in general congress assembled, appealing to the supreme Judge of the world, for the rectitude of our intentions, Do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are and of right ought to be free and independent states.—That they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain is, and ought to be totally dissolved; and that as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things, which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

Signed by order and in behalf of the Congress.

JOHN HANCOCK, PRESIDENT.

*Attested,* CHARLES THOMSON, *Secretary.*

*New Hampshire.*

Josiah Bartlett  
William Whipple  
Matthew Thornton

*Rhode Island.*

Stephen Hopkins  
William Ellery

*Connecticut.*

Roger Sherman  
Samuel Huntington

*Massachusetts Bay.*

John Hancock  
Samuel Adams  
John Adams  
Robert Treat Paine  
Eldridge Gerry

*Maryland.*

Samuel Chase  
William Paca  
William Williams

## INDEPENDENCE.

7

Oliver Wolcott  
*New York.*

William Floyd  
Philip Livingston  
Francis Lewis  
Lewis Morris

*New Jersey.*

Richard Stockton  
John Witherspoon  
Francis Hopkinson  
John Hart  
Abraham Clark

*Pennsylvania.*

Robert Morris  
Benjamin Rush  
Benjamin Franklin  
John Morton  
George Clymer  
James Smith  
George Taylor  
James Wilson  
George Ross

*Delaware.*

Thomas McKean  
Cæsar Rodney

Thomas Stone  
Charles Carroll of Carrollton  
*Virginia.*

George Wythe  
Richard Henry Lee  
Thomas Jefferson  
Benjamin Harrison  
Thomas Nelson jr.  
Francis Lightfoot Lee  
Carter Braxton

*North Carolina*

William Hooper  
Joseph Hewes  
John Penn

*South Carolina.*

Edward Rutledge  
Thomas Heyward jr.  
Thomas Lynch jr.  
Arthur Middleton

*Georgia.*

Button Gwinnet  
Lyman Hall  
George Walton



# **THE CONSTITUTION**

## **OF THE**

### **UNITED STATES OF AMERICA.**

---

**WE**, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America. [*See 1 Wheat. 324. 4 Wheat. 403.*]

#### **ARTICLE I.**

##### **OF THE LEGISLATURE.**

**SECTION I.** All legislative powers, herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

**Sect. II. 1.** The House of representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

**2.** No person shall be a representative, who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States,



and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned, among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and, until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three. [See 5 *Wheat.* 317.]

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The house of representatives shall choose their speaker, and other officers, and shall have the sole power of impeachment.

Sect. III. 1. The senate of the United States shall be composed of two senators from each state, *chosen* by the legislature thereof for six years; *and each senator shall have one vote.* [See 6 *Wheat.* 390.]

2. Immediately after they shall be assembled, in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one-third may be chosen every second year. And if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the Executive thereof may make temporary appointments, until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

4. The vice-president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.

5. The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

6. The senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside. And no person shall be convicted, without the concurrence of two-thirds of the members present.

7. *Judgment in cases of impeachment shall*

not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment according to law.

Sec. IV. 1. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.

2. Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law appoint a different day.

Sec. V. 1. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorised to compel the attendance of the absent members, in such manner, and under such penalties, as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member. [*See 1 Hall's Am. Law Jour. 459.*]

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of members of either house, on any question, shall, at the

desire of one-fifth of those present, be entered on the journal.

4. Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place, than that in which the two houses shall be sitting.

Sec. VI. 1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to, and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house, during his continuance in office.

Sec. VII. 1. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

2. Every bill, which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the President of the United States; if he approve, he *shall sign it*; but if not, he shall return it, with

his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless congress, by their adjournment, prevent its return, in which case it shall not be a law.

3. Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a question of adjournment) shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. VIII. Congress shall have power—

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the *common* defence and general welfare of the United States; but all duties, imposts and excises, shall

be uniform throughout the United States; [*See 5 Wheat. 317.*]

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes; [*See 9 Wheat. 1. 2 Hall's Am. L. Jour. 255, 272. 17 Johns. 488.*]

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States; [*See 4 Wheat. 122, 192, 209. 2 Wheat. 269. 20 Johns. 693.*]

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post offices and post roads;

8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries; [*See 3 Wheat. App. n. 2, p. 13. 7 Wheat. 356.*]

9. To constitute tribunals inferior to the supreme court;

10. To define and punish piracies and felonies committed on the high seas, and offences against the laws of nations; [*5 Wheat. 184, 153, 76. 3 Wheat. 336.*]

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on *land and water*; [*8 Cranch, 110, 154.*]

12. To raise and support armies ; but no appropriation of money to that use shall be for a longer term than two years ;

13. To provide and maintain a navy ; [*See 1 Mason, 79, 81. 4 Binn. 487.*]

14. To make rules for the government and regulation of the land and naval forces ;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions ; [*5 Wheat. 1. 19 Johns. 7.*]

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress ; [*3 S. and R. 169. 5 Wheat. 1. 19 Johns. 7.*]

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States ; and to exercise like authority over all places, purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings ;—and [*See 2 Mason, 60. 5 Wheat 317, 324. 6 Wheat. 440. Jour. of Jurisp. 47, 56. 17 Johns. 225.*]

18. To make all laws which shall be necessary and proper, for carrying into execution the foregoing powers, and all other powers vested by this

constitution in the government of the United States, or in any department or officer thereof. [4 *Wheat.* 413. 6 *Wheat.* 204.]

Sec. IX. 1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by congress, prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless, when in cases of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or *ex post facto* law, shall be passed. [See 3 *Dallas*, 386, 396. 6 *Binn.* 271.]

4. No capitation or other direct tax, shall be laid, unless in proportion to the census or enumeration herein before directed to be taken. [See 5 *Wheat.* 317. 3 *Dall.* 171.]

5. No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state, be obliged to enter, clear, or pay duties in another.

6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States; and no person holding any office



of profit or trust under them, shall, without the consent of congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Sec. X. 1. No state shall enter into any treaty, alliance or confederation ; grant letters of marque and reprisal ; coin money ; emit bills of credit ; make any thing but gold and silver coin a tender in payment of debts ; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts ; or grant any title of nobility. [See 8 *Wheat.* 84, 92, 256, n. 464. 5 *Wheat.* 420. 4 *Wheat.* 518, 122, 209. 6 *Wheat.* 131. 16 *Johns.* 233. 13 *Mass.* 16. 7 *Johns. Ch. R.* 297. 2 *Coven*, 626.]

2. No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws ; and the nett produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States ; and all such laws shall be subject to the revision and control of congress. No state shall, without the consent of congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger, as will not admit of delay.

## ARTICLE II.

### OF THE PRESIDENT.

Sec. I. 1. The executive power shall be vested in a president of the United States of America.

He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows :

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in congress ; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. The electors shall meet in their respective states and vote by ballot, for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of the persons voted for, and the number of votes for each ; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed ; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president ; and if no person have a majority, then, from the five highest on the list, the said house shall, in a like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation

from each state having one vote: A quorum for this purpose shall consist of a member or members of two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more, who have equal votes, the senate shall choose from them, by ballot, the vice-president. [*This clause altogether altered and supplied by the XIIth amendment.*]

4. Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United states. [*So also as to the vice-president. See XIIth amendment, post.*]

6. In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president; and congress may, by law, provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

7. The president shall at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period, any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation :

“I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.”

Sec. II. 1. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several states; when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other offices of the United States, whose appointments are not herein *otherwise provided for*, and which shall be estab-

lished by law. But congress may, by law, vest the appointment of such inferior offices as they think proper in the president alone, in the courts of law, or in the heads of departments.

3. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

Sec. III. He shall, from time to time, give to congress information of the state of the Union, and recommend to their consideration such measures, as he shall judge necessary and expedient; he may on extraordinary occasions, convene both houses, or either of them, and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors, and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States. [1 *Cranch*, 137.]

Sec. IV. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanours.

## ARTICLE III.

### OF THE JUDICIARY.

Sec. 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as congress may, from time to time, ordain and establish. The judges, both

of the supreme and inferior courts shall hold their offices during good behaviour, and shall at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office. [*See 7 Johns. Ch. R. 303.*]

Sec. II. 1. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof and foreign states, citizens or subjects. [*See 2 Dall. 297. 6 Wheat. 264, 405. 2 Mason, 472, 9 Wheat. 819.*]

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as congress shall make. [*5 S. and R. 545. 1 Binn. 138.*]

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not com-

mitted within any state, the trial shall be at such place or places as congress may by law have directed.

Sec. III. 1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or confession in open court. [4 *Cranch*, App. Note B. 470, 126.]

2. Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

## ARTICLE IV.

### OF STATE RECORDS.

Sec. I. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof. [See 7 *Cranch*. 481. 3 *Wheat*. 234. 1 *Peters*, 81, 352. 6 *Wheat*. 129.]

### OF CITIZENSHIP.

Sec. II. 1 The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.\* (See 4 *Johns. Ch. R.* 430.)

\*Free negroes and mulattoes are not citizens within the meaning of the constitution. 1 *Litt.* 333.

**OF FUGITIVES FROM JUSTICE.**

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime. [*See 4 Johns. Ch. R. 106.*]

**OF FUGITIVE SLAVES.**

3. No person held to service or labour in one state, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up, on the claim of the party to whom such service or labour may be due. [*See 2 S. and R. 306. 3 S. and R. 4. 5 S. and R. 62.*]

**OF THE ADMISSION OF NEW STATES.**

Sect. III. 1. New states may be admitted by congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of congress.

**OF TERRITORIES.**

2. Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory, or other property, belonging to the United States; and nothing in this constitution



shall be so construed, as to prejudice any claims of the United States, or of any particular state.

#### OF STATE FORMS OF GOVERNMENT.

Sect. IV. The United States shall guarantee to every state in this Union, a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the executive, (when the legislature cannot be convened) against domestic violence.

### ARTICLE V.

#### OF AMENDMENTS TO THE CONSTITUTION.

Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by congress: *Provided*, That no amendment, which may be made prior to the year one thousand, eight hundred and eight, shall, in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

**ARTICLE VI.****OF PUBLIC DEBT.**

**Sect. I.** All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

**OF THE SUPREME LAW OF THE LAND.**

**Sect. II.** This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

**OF THE CONSTITUTIONAL OATH, AND A RELIGIOUS TEST.**

**Sect. III.** The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office, or public trust, under the United States.

**ARTICLE VII.**

The ratification of the conventions of nine states shall be sufficient for the establishment of this

constitution, between the states so ratifying the same.

Done in Convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord, one thousand seven hundred and eighty-seven, and of the Independence of the United States of America, the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON, *President.*  
and Deputy from Virginia.

*New Hampshire.*

John Langdon,  
Nicholas Gilman.

*Massachusetts.*

Nathaniel Gorham,  
Rufus King.

*Connecticut.*

William Samuel Johnson,  
Roger Sherman.

*New York.*

Alexander Hamilton.

*New Jersey.*

William Livingston,  
David Bearly,  
William Patterson,  
Jonathan Dayton,

*Pennsylvania.*

Benjamin Franklin,  
Thomas Mifflin,  
Robert Morris,  
George Clymer,  
Thomas Fitzsimmons,  
Jared Ingersoll,  
James Wilson,  
Gouverneur Morris.

*Attest,*

*Delaware.*

George Read,  
Gunning Bedford, Jun.  
John Dickinson,  
Richard Bassett,  
Jacob Broom,

*Maryland.*

James M'Henry,  
Daniel of St. Tho. Jenifer,  
Charles Carroll.

*Virginia.*

John Blair,  
James Madison, Jun.

*North Carolina.*

William Blount,  
Richard Dobbs Spaight,  
Hugh Williamson.

*South Carolina.*

John Rutledge,  
Charles Gotesworth Pinckney,  
Charles Pinckney,  
Pierce Butler.

*Georgia.*

William Few,  
Abraham Baldwin.

WILLIAM JACKSON, *Sec'ry.*

## AMENDMENTS.

The following articles proposed by congress, in addition to, and amendment of the constitution of the United States, having been ratified by the legislatures of two-thirds of the states, are become a part of the constitution.

*First Congress, First Session, March 5, 1789.*

Art. 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for redress of grievances. (*See 3 Yeates, 520.*)

Art. 2. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

Art. 3. No soldier shall in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Art. 4. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. [*3 Cranch, 448, 453. 6 Binn. 316.*]

Art. 5. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a

presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger ; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb ; nor shall be compelled, in any criminal case, to be a witness against himself ; nor be deprived of life, liberty or property, without due process of law ; nor shall private property be taken for public use, without just compensation. [18 *Johns.* 187. 3 *Yeates*, 362. 6 *Binn.* 509. 2 *Dall.* 312. 2 *Johns. Ch. R.* 164. 1 *S. and R.* 382.]

Art. 6. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law ; and to be informed of the nature and cause of the accusation ; to be confronted with the witnesses against him ; to have compulsory process for obtaining witnesses in his favour ; and to have the assistance of counsel for his defence.

Art. 7. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved ; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law. [See 8 *Wheat.* 674.]

Art. 8. Excessive bail shall not be required, nor excessive fine imposed, nor cruel and unusual punishments inflicted.

Art. 9. The enumeration in the constitution of

certain rights shall not be construed to deny or disparage others retained by the people.

Art. 10. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

*Third Congress, Second Session Dec. 2, 1793.*

Art. 11. The judicial power of the United States shall not be construed to extend to any suit at law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state. (*See Wheat.* 405.)

*Eighth Congress, first Session Oct. 17, 1803.*

Art. 12. The electors shall meet in their respective states,\* and vote by ballot, for president and vice-president; one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots, the person voted for as president, and in distinct ballots, the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed,† to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house

\* On the first Wednesday in December, by Act of Congress, 1st March, 1792.

† Before the first Wednesday in January, by the same act.

of representatives, open all the certificates,\* and the votes shall then be counted ; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed. And if no person have such majority, then, from the persons having the highest numbers, not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president ; but in choosing the president the votes shall be taken by states, the representation from each state having one vote ; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice ; and if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed ; and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice-president ; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of *president*, shall be eligible to that of vice-president of the United States.

\* *On the second Wednesday in February, by the same act.*

[The following article was proposed by congress to the several states for their adoption as part of the constitution, and has been ratified by the state of Pennsylvania, and some of the other states, but had not, in March, 1825, been ratified by the number of states required by the fifth article of the constitution, and is therefore, as yet, no part of the constitution of the United States.]

*Eleventh Congress, Second Session, November  
27th, 1809.*

**Art. 13.** If any citizen of the United States shall accept, claim, receive, or retain any title of nobility or honour, or shall, without the consent of congress, accept and retain any present, pension, office, or emolument of any kind whatever, from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them. [*See Const. U. S. Art. 1, s. ix. p. 13.*]



# OPENING

OF THE

## UNITED STATES SENATE.

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The United States senators assemble at Washington, on the first Monday in December, in each year, in their chamber, at 12 o'clock, meridian. The Vice President, towards the close of the session, usually withdraws; when a president pro tempore is chosen. This is done to meet any contingency that may happen, either from the death of the President, or the death or absence of the Vice President. At the convening of the senators, if the Vice President is absent, the president pro tempore of course takes the chair, and proceeds to open the session forthwith. The secretary calls over the names of the senators present. The certificates of election of such gentlemen as meet for the first time, or upon re-election, being read, the new senators are requested by the president to approach the chair and take the oath, which he administers in the following form :—"I, A. B., do solemnly swear, (or affirm, as the case may be,) that I will support the Constitution of the United States."

*The new senators having been duly quali-*

fied, and a quorum being in attendance, it is customary to adopt the following resolutions :

*Resolved*, That the secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and that the Senate is ready to proceed to business.

*Resolved*, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to wait on the President of the United States, and inform him that quorums of the two houses have assembled, and that the two houses are ready to receive any communications he may be pleased to make.

[The standing rules of the Senate direct that the committees shall be appointed by *ballot*, but the senators, not having time to *elect* the committee to wait on the President, it is the practice for some senator to move to suspend the rule relative to *balloting*, and that the president *name* the committee, which being agreed to, he asks of what number the committee shall consist. "Two" being named, he says, "the committee will consist of two." The president of course names the mover of the resolution, and associates some other senator with him.]

*Resolved*, That each senator be supplied during the present session, with three such newspapers, printed within the United States, as he *may choose* ; provided the same be fur-

nished at the usual rate for the annual charge of newspapers; and provided that, if any senator shall choose to take any newspaper other than daily, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

The second day, the president takes the chair at the hour to which the Senate stands adjourned; and a quorum being present, he says, "There is a quorum of senators present; the secretary will read the minutes of yesterday." The journal is read, to the end that any mistake may be corrected that shall be made in the entries.

The House of Representatives sends the following communication by their clerk:—

Who says, "Mr. President, I am directed to inform the Senate, that a quorum of the House of Representatives has assembled: that ———, one of the representatives from the State of ———, has been duly elected Speaker thereof, and that it is now ready to proceed to business." The clerk also informs the Senate, that the House of Representatives concur in the resolution of the Senate, for the appointment of a joint committee to wait on the President of the United States, and inform him that quorums of both Houses have assembled, and that Congress is ready to receive any communications he may be pleased to make: and have

appointed A. B. C. a committee on their part. Sometimes the clerk notifies the Senate, that the House has adopted the joint resolution, and asks the concurrence of the Senate.

The joint committees report to their respective Houses, "That they waited upon the President of the United States, and informed him that quorums of the two Houses had assembled, and that they are ready to receive any communications he may be pleased to make; and that the President replied, that he would make his communication in writing to the two Houses of Congress this day, at 12 o'clock."

The private secretary of the President, after being announced at the bar of the Senate, informs that body that he has a message in writing from the President of the United States. This message the president submits to the Senate, which is read by the secretary.

The message being read, some senator moves, that—thousand copies of the message be printed for the use of the members. The president of the Senate then submits to the Senate a letter from the Secretary of the Treasury, transmitting his annual report, and the annual report of the other officers of the government; of which, on motion, extra copies are usually ordered to be printed.

**“Resolved,** That the Senate will, on tomorrow, proceed to elect a secretary of the Senate.

Agreeably to the order of the day, the Senate proceeded to the election of a secretary; and, on *counting the ballots*, it appeared that ——— had a majority of the votes, and was duly elected.”

The secretary of the Senate, at the time of taking the oath or affirmation to support the Constitution of the United States, must take an oath or affirmation in the following form: “I, A. B., secretary of the Senate of the United States of America, do solemnly swear (or affirm) that I will truly and faithfully discharge the duties of my said office to the best of my knowledge and ability.” The sergeant-at-arms is elected in the same manner, and takes the oath prescribed by law.

**“Resolved,** That the Senate will, on tomorrow, proceed to appoint the standing committees.

Agreeably to the order of the day, the Senate proceeded by ballot to the appointment of the standing committee, in conformity with the 34th rule, as follows:”

“In the appointment of the standing committees, the Senate will proceed by ballot, severally to appoint the *chairman of each committee*, and then, by one ballot, the other *members necessary to complete the same*;

and a majority of the whole number of votes given shall be necessary to the choice of a chairman of a standing committee. All other committees shall be appointed by ballot, and a plurality of votes shall make a choice. When any subject or matter shall have been referred to a committee, any other subject or matter, of a similar nature, may, on motion, be referred to such committee.

After the election by *ballot* of a *chairman* for each committee, the following entry is made on the journal :

Ordered, that Mr. ——— be chairman of the Committee of Foreign Relations, and so on, through all the committees.

It frequently happens that the *other* members of the committees are not chosen till the succeeding day.

I find that when the Senate had proceeded by *ballot*, and elected the chairmen of three several committees, the president of the Senate was authorized to appoint the remaining committees for that session. Thus, Sept. 6th, 1837. *Journal of the Senate.*

“The Senate proceeded, agreeably to order, to the appointment by *ballot*, of the standing committees, and *ordered* that Mr. Buchanan be chairman of the Committee on Foreign Affairs.

Ordered, That Mr. Wright be chairman of the *Committee on Finance.*

Ordered, That Mr. King, of Alabama, be chairman of the Committee on Commerce.

Whereupon, on motion of Mr. Clay, by unanimous consent, *Resolved*, That so much of the 34th rule as requires the appointment of the several standing committees by *ballot*, at the present session, be suspended, and that their appointments be made by the president of the Senate."

In the course of the first week, it is usual for each House to choose a chaplain of a different denomination, to serve during the session. When the chaplains have been elected, they alternate between the Houses, and open each day's session with prayer. Each chaplain performs his duty a few minutes before the presiding officer takes the chair.

After the Journal is read, the president shall *first* call for petitions, and then for reports from standing committees; and every petition, or memorial, or other paper, shall be referred *of course*, without putting a question for that purpose, unless the reference is objected to by a member, at the time such petition, memorial, or other paper is presented. And before any petition or memorial, addressed to the Senate, shall be received and read at the table, whether the same shall be introduced by the president or a member, a brief statement of the contents of the petition

or memorial shall verbally be made by the introducer.

One day's notice at least shall be given of an intended motion for leave to bring in a bill; and all bills reported by a committee shall, after the *first* reading, be printed for the use of the Senate, but no other paper or document shall be printed for the use of the Senate without special order.

Every bill shall receive three readings previous to its being passed; and the president shall give notice at each whether it be the *first*, *second*, or *third*: which readings shall be on three different days, unless the Senate *unanimously* direct otherwise.

The Vice President, or president of the Senate pro tempore, shall have the right to name a member to perform the duties of the chair; but such substitution shall not extend beyond an adjournment.

No bill shall be committed or amended until it shall have been twice read; after which it may be referred to a committee.

All bills on a second reading shall first be considered by the Senate in the same manner as if the Senate *were in committee of the whole*, before they are taken up, and proceeded on by the Senate agreeably to the standing rules, unless otherwise ordered.

When the Senate is equally divided, the



secretary shall take the decision of the president.

In filling up blanks, the largest sum and longest time shall be *first* put.

When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the Senate, and without debate.

The unfinished business in which the Senate was engaged at the last preceding adjournment, shall have the precedence in the special orders of the day.

When the yeas and nays shall be called for by *one-fifth* of the members present, each member called upon shall, unless for special reason he be excused by the Senate, declare openly, and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon a call of the House, the names of the members shall be taken alphabetically.

When the yeas and nays shall be taken upon any question, in pursuance of the above rule, no member shall be permitted, under any circumstances whatever, to vote *after* the decision is announced from the chair.

On motion made and seconded to shut the doors of the senate, on the discussion of any business which may, in the opinion of a member, require secrecy, the president shall *direct the gallery to be cleared*; and, during

the discussion of such motion, the doors shall remain shut.

When a question has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the re-consideration thereof: but no motion for re-consideration of any vote shall be in order after a bill, resolution, message, report, amendment, or motion, upon which the vote was taken, shall have gone out of the possession of the Senate, announcing their decision: nor shall any motion for re-consideration be in order, unless made on the same day on which the vote was taken, or within the two next days of actual session thereafter.

No motion shall be debated until the same be seconded.

When a motion shall be made and seconded, it shall be reduced to writing, if desired by the president, or any member, and delivered in at the table, and read before the same shall be debated.

When a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or to amend; which several motions shall have precedence in the order they stand arranged: and the motion for adjournment shall always

be in order, and be decided without debate.

When a member shall be called to order by the president, or a senator, he shall sit down; and every question out of order shall be decided by the president, without debate, subject to an appeal to the Senate; and the president may call for the sense of the Senate on any question of order.

If a member be called to order by a senator for words spoken, the exceptionable words shall immediately be taken down in writing, that the president may be better enabled to judge of the matter.

The two houses appoint a joint committee on the library.

The president of the Senate *pro tempore*, and the speaker of the House of Representatives shall, during their services respectively, receive eight dollars per diem, in addition to their compensation as members of congress, for every day's attendance on their respective Houses.

The senators and representatives, and the members of the several state legislatures, and all executive and judicial officers, both of the United States, and of the several states, shall be bound, by *oath or affirmation*, to support the Constitution; but no religious test shall ever be required as a qualification to any of-

fice or public trust under the United States.  
*Con. art. 6, clause 3.*

The following is the form of the oath prescribed by the act of congress of 1789.

I, A. B., do solemnly swear, or affirm (as the case may be,) that I will support the Constitution of the United States.

The two Houses appoint joint committees to ascertain and report a mode of examining the votes of President and Vice President, and of notifying the persons elected. They make report to each House. The following is the usual form of the resolution: *Resolved*, That the two Houses shall assemble in the chamber of the House of Representatives on Wednesday next, (second Wednesday in February succeeding every meeting of electors,) at 12 o'clock, and the president of the Senate shall be the presiding officer: that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared: that the result shall be delivered to the president of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled, as aforesaid; which shall be deemed a declaration of the persons elected President and Vice President of the United States; and, together with a list of votes, be entered on *the journal of the two Houses*.

On the day and hour appointed by the two Houses for opening the returns, the clerk of the House waits upon the Senate, and notifies that body that the House of Representatives is ready to receive the Senate, and proceed to opening the certificates, and counting the votes of the electors for President and Vice President. Whereupon the senators repair to the chamber of the House of Representatives, and the president opens the certificates, and delivers them to the tellers, who read the same; and thus the number of votes is ascertained for the different candidates. A tabular list of the votes for the candidates is made out, and the votes added up, and announced.

This list of votes is reported to each House, and entered upon the journal. A joint committee is then appointed to notify the President and Vice President of their election. The President elect announces to the president of the Senate his intention to take the oath on the 4th of March, at such place as the Senate may think proper to designate. A committee is then appointed to make the necessary arrangements for the reception and inauguration of the president elect on the 4th of March, and to apprise him of the fact.

With the view of showing the mode of conducting a bill through the Senate that has been sent by the House of Representatives

for concurrence, I give the following outline. "A message from the House of Representatives, by Mr. —, their clerk."

Mr. President: The House of Representatives have passed the bill entitled an act; and reads the title. The president hands it to the secretary, who gives it its *first* reading. Sometimes, a bill receives its first and second reading by *unanimous* consent. Every bill must receive its *first* and *second* reading before it can have any other action taken upon it in the Senate. The president, at the time he hands it to the secretary, says, "The first reading of a bill." The clerk usually reads it by the title. If consent has been granted, the clerk rises again to read the bill; when the president says, "The *second* reading of a bill." The secretary reads the bill again by its title. If consent has not been given to read the bill *twice* on the same day, it will come up in order for its second reading on the next day. After the bill has been read a second time, a motion is generally made to commit it to the appropriate committee.

The committee, at a proper time, report it back, either with or "without amendments," to the Senate; after which it is considered *as in committee of the whole*, the president not leaving the chair. The bill being read by the secretary, and no amendment being of

ferred, the president says, the bill has now been considered as in committee of the whole. No amendment being offered, the bill is reported to the Senate. The question will be on ordering it to a third reading. He then rises, and says, "As many as are in favour of its being ordered to a third reading, will say aye. The contrary opinion will say no." If the ayes have it, he will say, the ayes have it, or it is agreed to. The next day, or, if the Senate *unanimously consent*, the bill, the same day, receives its last reading. When the clerk rises to read the bill, the president says, "The third reading of an engrossed bill. The bill being read, he asks "shall this bill pass?" He puts the affirmative and negative question in relation to the bill, and, if it is carried, he says, "It is agreed that this bill do pass." The title of the bill is then read; when he generally, in a short way, says, "Shall *this* be the title of the bill?" and no one objecting, he says, the title is agreed to. It sometimes, however, happens that the bill, when committed, is reported to the Senate *with an amendment*. I have, therefore, thought it proper to extract a case of that kind from the journal.

Mr. Wright, from the Committee on Finance, to whom was referred the bill (H. R. 529,) entitled, "an act supplementary to the

act entitled, "an act establishing a mint, and regulating the coin of the United States, reported the same *with an amendment*; which was read, Jany. 9th, 1837.

The Senate proceeded to consider, *as in committee of the whole*, the foregoing bill, together with the amendment reported thereto; and the said amendment having been agreed to, the Vice President reported the bill to the Senate, and the amendment was concurred in. The presiding officer says, "The bill is still open for amendment." If no amendment is proposed, the president then says, "The question will be on engrossing the bill as amended, and reading it a third time, which was concurred in.

Ordered, That the amendment be engrossed, and the bill be read a third time. Jany. 10.—The amendment to the bill (the foregoing) having been reported by the committee correctly engrossed, the bill was read a third time as amended; when, *Resolved*, That this bill do pass with an amendment. Ordered, That the Secretary request the concurrence of the House of Representatives therein.

Jany. 12, 1837.—A message from the House of Representatives, by Mr. Franklin, their clerk.

"Mr. President: The House of Represen-



tatives concur in the amendment to the bill," (referred to above.)

Jany. 18.—The committee on enrolled bills reported that they had presented it to the President.

All the bills are signed by the president of the Senate, and Speaker of the House, before presentation to the President of the United States.

They are signed by these officers while their respective bodies *are in session*.

### *Classifying new Senators.*

Upon the appearance of the senators from the new state of Arkansas, with the view of arranging them in their proper class, Mr. Benton, Dec. 5th, 1836, submitted the following resolution, which was adopted.

*Resolved*, That the Senate proceed to ascertain the classes in which the senators of the state of Arkansas shall be inserted, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

On motion, by Mr. Benton,

Ordered, That the secretary put into the ballot-box three papers of equal size, numbered 1, 2, 3. Each of the senators of the state of Arkansas shall draw out one paper. No. 1, if drawn, shall entitle the member to be placed in the class of senators whose term of service will expire the 3d day of March,

1837: No. 2, in the class whose term of service will expire on the 3d of March, 1839: and No. 3, in the class whose terms will expire the 3d of March, 1841. Whereupon, the papers above mentioned were put by the secretary into the box, and the Honourable Ambrose H. Sevier drew No. 1, and is accordingly of the class of senators whose terms of service will expire the 3d day of March, 1837; and the Honourable Mr. S. Fulton drew No. 3, and is accordingly of the class of senators whose terms of service will expire the 3d day of March, 1841.

Upon the swearing in of a new President and Vice President, it is necessary that the Senate should be in session on the 4th of March. It therefore becomes the duty of the President of the United States, to specially convene the senators; hence the following notice was issued, the 6th Jany. 1841:

The President of the United States,

To ——— Senator of the State of ———

Certain matters, touching the public good, require that the Senate of the United States should be convened on the 4th of March next; you are desired to attend at the senate-chamber, in the city of Washington, on that day, *then and there* to receive and to delibe-

rate on such communications as shall be made to you.

M. VAN BUREN.

WASHINGTON, Jany. 6, 1841.

Journal of the Senate, 1841. }

March the 2d. }

Vice President Johnson said, "yesterday, I intimated that I should, some time during the session of this day, feel it my duty to retire from my seat, for the purpose of giving the Senate an opportunity of selecting a presiding officer, for the convenience of organization on the 4th of March."

In conformity with the above summons, the Senate assembled in their chamber, in the city of Washington. The Vice President was duly qualified, and presided, when the President of the United States, Ex-President, Chief Justice of the Supreme Court, Heads of Departments, and Foreign Ministers having entered the senate chamber, whereupon the Senate proceeded with them to the eastern portico, where the President of the United States delivered his address, and took his oath of office prescribed by the Constitution of the United States.

When the Senate elects a president pro tempore, notice of the election is sent to the House of Representatives, and also to the President of the United States.

# RULES

## FOR CONDUCTING BUSINESS IN THE SENATE OF THE UNITED STATES.

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1. The president having taken the chair, and a quorum being present, the journal of the preceding day shall be read, to the end that any mistake may be corrected that shall be made in the entries.

2. No member shall speak to another, or otherwise interrupt the business of the Senate, or read any newspaper, while the journals or public papers are reading, or when any member is speaking in any debate.

3. Every member, when he speaks, shall address the chair, standing in his place, and when he has finished shall sit down.

4. No member shall speak more than twice, in any one debate, on the same day, without leave of the senate.

5. When two members rise at the same time, the president shall name the person to speak ; but in all cases the member who shall first rise and address the chair, shall speak first.

6. When a member shall be called to order, by the president, or a senator, he shall sit down ; and every question out of order shall be decided by the president without debate, subject to an appeal to the senate ; and the president may call for the sense of the senate on any question of order.

7. If the member be called to order by a senator, for words spoken, the exceptionable words

shall immediately be taken down in writing, that the president may be better enabled to judge of the matter.

8. No member shall absent himself from the service of the senate, without leave of the senate first obtained. And in case a less number than a quorum of the Senate shall convene, they are hereby authorised to send the serjeant-at-arms, or any other person or persons by them authorised, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members respectively, unless such excuse for non-attendance shall be made, as the senate, when a quorum is convened, shall judge sufficient; and in that case, the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the senate at the legal time of meeting, as to each day of the session, after the hour has arrived to which the senate stood adjourned.

9. No motion shall be debated until the same shall be seconded.

10. When a motion shall be made and seconded, it shall be reduced to writing, if desired by the president, or any member, delivered in at the table, and read, before the same shall be debated.

11. When a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or to amend; which several motions shall have precedence in the order they stand arranged, and the motion for adjournment shall always be in order, and be decided without debate.

12. If the question in debate contain several points, any member may have the same divided;

but on a motion to strike out and insert, it shall not be in order to move for a division of the question; but the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition; nor prevent a subsequent motion, simply to strike out; nor shall the rejection of a motion simply to strike out prevent a subsequent motion to strike out and insert.

13. In filling up blanks, the largest sum and longest time shall be first put.

14. When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the senate, and without debate.

15. The unfinished business in which the senate was engaged at the last preceding adjournment, shall have the preference in the special orders of the day.

16. When the yeas and nays shall be called for by one-fifth of the members present, each member called upon shall, unless for special reason he be excused by the senate, declare openly, and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon the call of the house, the names of the members shall be taken alphabetically.

17. When the yeas and nays shall be taken upon any question, in pursuance of the above rule, no member shall be permitted, under any circumstances whatever, to vote after the decision is announced from the chair.

18. On a motion made and seconded to shut *the doors of the senate*, on the discussion of any

business which may, in the opinion of a member, require secrecy, the president shall direct the gallery to be cleared; and, during the discussion of such motion, the doors shall remain shut.

19. No motion shall be deemed in order, to admit any person or persons whatsoever within the doors of the senate chamber, to present any petition, memorial, or address, or to hear any such read.

20. When a question has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the re-consideration thereof: but no motion for the re-consideration of any vote shall be in order after a bill, resolution, message, report, amendment, or motion, upon which the vote was taken, shall have gone out of the possession of the Senate, announcing their decision; nor shall any motion for re-consideration be in order, unless made on the same day on which the vote was taken, or within the two next days of actual session of the Senate thereafter.

21. When the Senate are equally divided, the secretary shall take the decision of the president.

22. All questions shall be put by the president of the Senate, either in the presence or absence of the President of the United States; and the senators shall signify their assent or dissent, by answering aye or no.

23. The Vice President, or president of the Senate pro tempore, shall have the right to name a member to perform the duties of the chair; but

such substitution shall not extend beyond an adjournment.

24. After the journal is read, the president shall first call for petitions, and then for reports from standing committees; and every petition or memorial, or other paper shall be referred, of course, without putting a question for that purpose, unless the reference is objected to by a member at the time such petition, memorial, or other paper, is presented. And before any petition or memorial, addressed to the Senate shall be received and read at the table, whether the same shall be introduced by the president or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer.

25. One day's notice at least shall be given of an intended motion for leave to bring in a bill; and all bills reported by a committee shall, after the first reading, be printed for the use of the Senate: but no other paper or document shall be printed for the use of the Senate, without special order.

26. Every bill shall receive three readings previous to its being passed; and the president shall give notice at each, whether it be the first, second, or third; which readings shall be on three different days, unless the Senate unanimously direct otherwise. And all resolutions proposing amendments to the Constitution, or to which the approbation and signature of the President may be requisite, or which may grant money out of the contingent or any other fund, shall be treated, *in all respects, in the introduction and form of*



proceedings on them, in the Senate, in a similar manner with bills: and all other resolutions shall lie on the table one day for consideration, and also reports of committees.

27. No bill shall be committed or amended until it shall have been twice read, after which it may be referred to a committee.

28. All bills on a second reading, shall first be considered by the Senate in the same manner as if the Senate were in committee of the whole, before they shall be taken up and proceeded on by the Senate, agreeably to the standing rules, unless otherwise ordered. And when the Senate shall consider a treaty, bill, or resolution, as in committee of the whole, the Vice President, or president pro tempore may call a member to fill the chair, during the time the Senate shall remain in committee of the whole: and the chairman so called shall, during such time, have the powers of a president pro tempore.

29. The final question, upon the second reading of every bill, resolution, constitutional amendment, or motion, originating in the Senate, and requiring three readings previous to being passed, shall be, "Whether it shall be engrossed and read a third time?" and no amendment shall be received for discussion at the third reading of any bill, resolution, amendment, or motion, unless by unanimous consent of the members present: but it shall at all times be in order, before the final passage of any such bill, resolution, constitutional amendment, or motion, to move its commitment; and should such commitment take place, and any amendment be reported by the committee, the

said bill, resolution, constitutional amendment, or motion, shall be again read a second time, and considered as in committee of the whole, and then the aforesaid question shall be again put.

30. The special orders of the day shall not be called by the Chair before one o'clock, unless otherwise directed by the Senate.

31. The titles of bills and such parts thereof only as shall be affected by proposed amendments, shall be inserted on the journals.

32. The proceedings of the Senate, when not acting as in committee of the whole, shall be entered on the journal as concisely as possible, care being taken to detail a true and accurate account of the proceedings: but every vote of the Senate shall be entered on the journal, and a brief statement of the contents of each petition, memorial, or paper, presented to the Senate, shall also be inserted on the journal.

33. The following Standing Committees, to consist of five members each, shall be appointed at the commencement of each session, with leave to report by bill or otherwise:

A Committee on Foreign Relations.

A Committee on Finance.

A Committee on Commerce.

A Committee on Manufactures.

A Committee on Agriculture.

A Committee on Military Affairs.

A Committee on the Militia.

A Committee on Naval Affairs.

A Committee on Public Lands.

A Committee on Private Land Claims.

**A Committee on Indian Affairs.**

**A Committee of Claims.**

**A Committee on Revolutionary Claims.**

**A Committee on the Judiciary.**

**A Committee on the Post Office and Post Roads.**

**A Committee on Roads and Canals.**

**A Committee on Pensions.**

**A Committee on the District of Columbia.**

**A Committee on Patents and the Patent Office.**

**A Committee on the Public Buildings, consisting of three members, to act jointly with the same committee of the House of Representatives.**

**A Committee of three members, whose duty it shall be to audit and control the contingent expenses of the Senate.**

**And a Committee, consisting of three members, whose duty it shall be to examine all bills, amendments, resolutions, or motions, before they go out of possession of the Senate, and shall deliver the same to the secretary of the Senate, who shall enter upon the journal that the same have been correctly engrossed.**

**34. In the appointment of the Standing Committees, the Senate will proceed by ballot, severally to appoint the chairman of each committee, and then, by one ballot, the other members necessary to complete the same; and a majority of the whole number of votes given, shall be necessary to the choice of a chairman of a standing committee. All other committees shall be appointed by ballot, and a plurality of votes shall make a choice. When any subject or matter shall**

have been referred to a committee, any other subject or matter of a similar nature, may, on motion, be referred to such committee.

35. When motions are made for reference of the same subject to a select committee, and to a standing committee, the question on reference to the standing committee shall be first put.

36. When nominations shall be made in writing by the President of the United States to the Senate, a future day shall be assigned, unless the Senate unanimously direct otherwise, for taking them into consideration. When the President of the United States shall meet the Senate in the senate chamber, the president of the Senate shall have a chair on the floor, be considered as the head of the Senate, and his chair shall be assigned to the President of the United States. When the Senate shall be convened by the President of the United States to any other place, the president of the Senate and senators shall attend at the place appointed. The secretary of the Senate shall also attend to take the minutes of the Senate.

37. Whenever a treaty shall be laid before the Senate for ratification, it shall be read a first time for information only; when no motion to reject, ratify, or modify the whole, or any part, shall be received. Its second reading shall be for consideration, and on a subsequent day; when it shall be taken up as in committee of the whole, and every one shall be free to move a question on any particular article, in this form: "Will the Senate advise and consent to the ratification of *this article*?" or to propose amendments thereto,

either by inserting or by leaving out words ; in which last case, the question shall be, " Shall these words stand as part of the article ? " And in every of the said cases, the concurrence of two-thirds of the senators present shall be requisite to decide affirmatively. And when through the whole, the proceedings shall be stated to the House, and questions shall be again severally put thereon for confirmation, or new ones proposed, requiring in like manner a concurrence of two-thirds, for whatever is retained or inserted ; the votes so confirmed shall, by the House, or a committee thereof, be reduced into the form of a ratification, with or without modifications, as may have been decided, and shall be proposed on a subsequent day, when every one shall again be free to move amendments, either by inserting or leaving out words ; in which last case, the question shall be, " Shall these words stand as part of the resolution ? " And in both cases, the concurrence of two-thirds shall be requisite to carry the affirmative, as well as, on the final question, to advise and consent to the ratification in the form agreed to.

38. All confidential communications made by the President of the United States to the Senate, shall be by the members thereof kept secret ; and all treaties which may be laid before the Senate shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy.

39. All information or remarks, touching or *concerning* the character or qualifications of any

person nominated by the President to office, shall be kept secret.

40. When acting on confidential or executive business, the Senate shall be cleared of all persons except the secretary, the principal or the executive clerk, the serjeant-at-arms and door-keeper, and the assistant door-keeper.

41. The legislative proceedings, the executive proceedings, and the confidential legislative proceedings, of the Senate, shall be kept in separate and distinct books.

42. The President of the United States shall, from time to time, be furnished with an authenticated transcript of the executive records of the Senate; and all nominations approved, or definitively acted on by the Senate, shall be returned by the secretary, from day to day, as such proceedings may occur; but no further extract from the executive journal shall be furnished, except by special order; and no paper, except original treaties transmitted to the Senate by the President of the United States, or any executive officer, shall be returned or delivered from the office of the secretary, without an order of the Senate for that purpose.

43. When an amendment to be proposed to the Constitution is under consideration, the concurrence of two-thirds of the members present shall not be requisite to decide any question for amendments, or extending to the merits, being short of the final question.

44. When any question may have been decided by the Senate, in which two-thirds of the *members present* are necessary to carry the affirm-

ative, any member who votes on that side which prevailed in the question may be at liberty to move for a re-consideration ; and a motion for re-consideration shall be decided by a majority of votes.

45. Messages shall be sent to the House of Representatives by the secretary, who shall previously endorse the final determination of the Senate thereon.

46. Messengers are introduced in any state of business, except while a question is putting, while the yeas and nays are calling, or while the ballots are counting.

47. The following persons, and none others, shall be admitted on the floor of the Senate : members of the House of Representatives and their clerk ; the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Attorney-General, and the Postmaster-General ; the private secretary of the President, Chaplains to Congress, Judges of the United States, Foreign Ministers and their secretaries, Officers who, by name, have received, or shall hereafter receive the thanks of Congress for their gallantry and good conduct in the service of their country, or who have received medals by a vote of Congress ; the Governor, for the time being, of any State or Territory of the Union, the Ex-Governors of the several States, such gentlemen as have been Heads of Departments or members of either branch of Congress ; persons who, for the time being, belong to the respective State and *Territorial Legislatures*, and persons belonging to *such Legislatures* of foreign Governments as are

in amity with the United States; two reporters for each of the daily papers, and one reporter for each tri-weekly paper, printed and published in the city of Washington, whose names shall be communicated in writing, by the editors of those papers, to the Secretary of the Senate, and who shall confine themselves to the seats now provided for them.

48. The presiding officer of the Senate shall have the regulation of such parts of the Capitol and of its passages, as are or may be set apart for the use of the Senate and its officers.

49. The secretary of the Senate, the sergeant-at-arms and door-keeper, and the assistant door-keeper, shall be chosen on the second Monday of the first session of the 21st Congress, and on the same day of the first session of every succeeding Congress.



## **JOINT RULES.**

### **AND ORDERS OF THE TWO HOUSES.**

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1. In every case of an amendment of a bill agreed to in one house, and dissented to in the other, if either house shall request a conference, and appoint a committee for that purpose, and the other house shall also appoint a committee to confer, such committees shall, at a convenient hour, to be agreed on by their chairman, meet in the conference chamber, and state to each other verbally, or in writing, as either shall choose, the reasons of their respective houses, for and against the amendment, and confer freely thereon.

2. When a message shall be sent from the senate to the house of representatives, it shall be announced at the door of the house by the door-keeper, and shall be respectfully communicated to the chair, by the person by whom it may be sent.

3. The same ceremony shall be observed, when a message shall be sent from the house of representatives to the senate.

4. Messages shall be sent by such persons, as a sense of propriety in each house may determine to be proper.

5. While bills are on their passage between the two houses, they shall be on paper, and under the signature of the secretary or clerk of each house, respectively.

6. After a bill shall have passed both houses it shall be duly enrolled on parchment, by the clerk

of the house of representatives, or the secretary of the senate, as the bill may have originated in the one or the other house, before it shall be presented to the president of the United States.

7. When bills are enrolled, they shall be examined by a joint committee of two from the senate, and two from the house of representatives, appointed as a standing committee for that purpose, who shall carefully compare the enrolment with the engrossed bills, as passed in the two houses, and correcting any errors that may be discovered in the enrolled bills, make their report forthwith to their respective houses.

8. After examination and report, each bill shall be signed in their respective houses, first by the speaker of the house of representatives, then by the president of the senate.

9. After a bill shall have been thus signed in each house, it shall be presented by the said committee to the president of the United States, for his approbation, it being first endorsed on the back of the roll, certifying in which house the same originated: which endorsement shall be signed by the secretary or clerk (as the case may be) of the house in which the same did originate, and shall be entered on the journal of each house. The said committee shall report the day of presentation to the president, which time shall also be carefully entered on the journal of each house.

10. All orders, resolutions, and votes, which are to be presented to the president of the United States for his approbation, shall, also, in the same manner, be previously enrolled, examined, and

signed, and shall be presented in the same manner, and by the same committee, as provided in the cases of bills.

11. When the Senate and House of Representatives shall judge it proper to make a joint address to the President, it shall be presented to him in his audience chamber, by the president of the Senate, in the presence of the speaker and both houses.

12. When a bill or resolution, which shall have passed in one house, is rejected in the other, notice thereof shall be given to the house in which the same shall have passed.

13. When a bill or resolution, which has been passed in one house, shall be rejected in the other, it shall not be brought in during the same session, without a notice of ten days, and leave of two-thirds of that house in which it shall be renewed.

14. Each house shall transmit to the other all papers on which any bill or resolution shall be founded.

15. After each house shall have adhered to their disagreement, a bill or resolution shall be lost.

16. No bill that shall have passed one house, shall be sent for concurrence to the other, on either of the last three days of the session.

17. No bill or resolution, that shall have passed the House of Representatives and the Senate, shall be presented to the President of the United States, for his approbation, on the last day of the session.

18. When bills which have passed one house

are ordered to be printed in the other, a greater number of copies shall not be printed than may be necessary for the use of the house making the order.

19. No spirituous liquors shall be offered for sale, or exhibited within the capitol, or on the public grounds adjacent thereto.



## STANDING RULES

AND

ORDERS FOR CONDUCTING BUSINESS IN THE  
HOUSE OF REPRESENTATIVES OF THE  
UNITED STATES.

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### *Touching the duty of the Speaker.*

1. He shall take the chair every day precisely at the hour to which the House shall have adjourned on the preceding day; shall immediately call the members to order; and, on the appearance of a quorum, shall cause the Journal of the preceding day to be read.

2. He shall preserve order and decorum; may speak to points of order in preference to other members; rising from his seat for that purpose; and shall decide questions of order, subject to an appeal to the House by any two members; on which appeal no member shall speak more than *once, unless by leave of the House.*

3. He shall rise to put a question, but may state it sitting.

4. Questions shall be distinctly put in this form, to wit: "As many as are of opinion that (as the question may be) say *Ay*;" and, after the affirmative voice is expressed, "As many as are of the contrary opinion, say *No*." If the Speaker doubt, or a division be called for, the House shall divide: those in the affirmative of the question shall first rise from their seats, and afterward those in the negative. If the Speaker still doubt, or a count be required, the Speaker shall name two members, one from each side, to tell the members in the affirmative; which being reported, he shall then name two others, one from each side, to tell those in the negative; which being also reported, he shall rise, and state the decision to the House. No division and count of the House by tellers shall be in order, but upon motion seconded by at least one-fifth of a quorum of the members.

5. When any motion or proposition is made, the question, "Will the House now consider it?" shall not be put, unless it is demanded by some member, or is deemed necessary by the Speaker.

6. The Speaker shall examine and correct the Journal before it is read. He shall have a general direction of the Hall. He shall have a right to name any member to perform the duties of the chair, but such substitution shall not extend beyond an adjournment.

7. All committees shall be appointed by the Speaker, unless otherwise specially directed by the House, in which case they shall be appointed by

ballot ; and if, upon such ballot, the number required shall not be elected by a majority of the votes given, the House shall proceed to a second ballot, in which a plurality of votes shall prevail ; and, in case a greater number than is required to compose or complete a committee shall have an equal number of votes, the House shall proceed to a further ballot or ballots.

8. In all other cases of ballot than for committees, a majority of the votes given shall be necessary to an election ; and where there shall not be such a majority on the first ballot, the ballot shall be repeated until a majority be obtained. And in all ballotings blanks shall be rejected, and not taken into the count in the enumeration of votes, or reported by the tellers.

9. In all cases of election by the House, the Speaker shall vote ; in other cases he shall not vote, unless the House be equally divided, or unless his vote, if given to the minority, will make the division equal ; and, in case of such equal division, the question shall be lost.

10. In all cases where other than members of the House may be eligible to an office by the election of the House, there shall be a previous nomination.

11. In all cases of election, by the House of its officers, the vote shall be taken *viva voce*. (December 10, 1839.)

12. All acts, addresses, and joint resolutions, shall be signed by the Speaker ; and all writs, warrants, and subpœnas, issued by order of the House, shall be under his hand and seal, attested by the clerk.

13. In case of any disturbance or disorderly conduct in the galleries or lobby, the Speaker (or chairman of the committee of the whole house) shall have power to order the same to be cleared.

14. No person, except members of the Senate, their secretary, Heads of Departments, Treasurer, Comptrollers, Register, Auditors, Postmaster-General, President's secretary, Chaplains to Congress, Judges of the United States, Foreign Ministers and their secretaries, Officers who, by name, have received, or shall hereafter receive, the thanks of Congress for their gallantry and good conduct, displayed in the service of their country, the Commissioners of the Navy Board, Governor, for the time being, of any State or Territory in the Union, who may attend at the seat of the General Government during the session of Congress, and who may choose to avail himself of such privilege, such gentlemen as have been Heads of Departments, or members of either branch of the Legislature, and, at the discretion of the Speaker, persons who belong to such Legislatures of foreign Governments as are in amity with the United States, shall be admitted within the hall of the House of Representatives.

15. Stenographers, wishing to take down the debates, may be admitted by the Speaker, who shall assign such places to them on the floor, or elsewhere, to effect their object, as shall not interfere with the convenience of the House.

16. No person shall be allowed the privilege of the hall, under the character of stenographer, without a written permission from the Speaker,

specifying the part of the hall assigned to him; and no reporter or stenographer shall be admitted under the rules of the House, unless such reporter or stenographer shall state in writing, for what paper or papers he is employed to report. (March 1, 1838.)

17. The door-keeper shall execute strictly the 14th and 15th rules, relative to the privilege of the hall. (March 1, 1838.)

18. The clerk of the House shall take an oath ~~for~~ for the true and faithful discharge of the duties of his office, to the best of his knowledge and abilities. (Rule April 13, 1789, and act June 1st, 1789.) He shall be deemed to continue in office until another be appointed. (March 1, 1791.)\*

### *Order of Business of the Session.*

19. After six days from the commencement of a second or subsequent session of any Congress, all bills, resolutions, and reports which originated in the House, and at the close of the next preceding session remained undetermined, shall be resumed and acted on in the same manner as if an adjournment had not taken place.

\* There is no law, resolution, rule, or order, directing the appointment of the clerk of the House. On the 1st of April, 1789, being the first day that a quorum of the House assembled under the new Constitution, the House immediately elected a clerk by ballot, without a previous order having been passed for that purpose; although in the case of the Speaker, who was chosen on the same day, an order was previously adopted. A clerk has been regularly chosen at the commencement of every Congress since.



*Order of Business of the Day.*

20. As soon as the journal is read, the Speaker shall call for petitions from the members of each State, and delegates from each Territory, beginning with Maine and the Territory of Wisconsin, alternately; and if, on any day, the whole of the States and Territories shall not be called, the Speaker shall begin on the next day where he left off the previous day; provided that, after the first thirty days of the session, petitions shall not be received, except on the first day of the meeting of the House in each week.

21. No petition, memorial, resolution, or other paper praying the abolition of slavery in the District of Columbia, or any state or territory, or the slave-trade between the states or territories of the United States in which it now exists, shall be received by this House, or entertained in any way whatever.

22. The petitions having been presented and disposed of, reports from committees shall be called for and disposed of; in doing which, the Speaker shall call upon each standing committee, in the order they are named in the 70th and 98th rules; and when all the standing committees have been called on, then it shall be the duty of the Speaker to call for reports from select committees; if the Speaker shall not get through the call upon the committees before the House passes to other business, he shall resume the next call where he left off. Resolutions shall then be called for in the same order, and disposed of by the same rules which apply to petitions: provided that no mem-

ber shall offer more than one resolution, or one series of resolutions, all relating to the same subject, until all the states and territories shall have been called.

23. All the states and territories shall be called for resolutions on each alternate Monday during each session of Congress; and, if necessary to secure this object on said days, all resolutions which shall give rise to debate shall lie over for discussion, under the rules of the House already established; and the whole of said days shall be appropriated to resolutions, until all the states and territories are called through.—(February 6, 1838.)

24. After one hour shall have been devoted to reports from committees, and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table, and to the orders of the day; which being decided in the affirmative, the Speaker shall dispose of the business on his table in the following order, viz :

- 1st. Messages and other Executive communications.
- 2d. Messages from the Senate, and amendments proposed by the Senate to bills of the House.
- 3d. Bills and resolutions from the Senate on their first and second reading, that they be referred to committees, and put under way; but if, on being read a second time, no motion be made *to commit*, they are to be ordered to their third

reading, unless objection be made; in which case, if not otherwise ordered by a majority of the House, they are to be laid on the table in the general file of bills on the Speaker's table, to be taken up in their turn.

4th. Engrossed bills, and bills from the Senate on their third reading.

5th. Bills of the House and from the Senate, on the Speaker's table, on their engrossment, or on being ordered to a third reading, to be taken up and considered in the order of time in which they passed to a second reading.

The messages communications, and bills, on his table, having been disposed of, the Speaker shall then proceed to call the orders of the day.

25. The business specified in the two preceding rules, shall be done at no other part of the day, except by permission of the House.

### *Local or Private Business.*

26. Friday and Saturday in every week shall be set apart for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the House.

27. On the first and fourth Friday of each month, the calendar of private bills shall be called over, and the bills to the passage of which no objection shall then be made shall be first considered and disposed of.—(January 25, 1839.)

*Of Decorum and Debate.*

28. When any member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat, and respectfully address himself to "Mr. Speaker," and shall confine himself to the question under debate, and avoid personality.

29. If any member, in speaking, or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case, the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case, but without debate: if there be no appeal, the decision of the Chair shall be submitted to. If the decision be in favour of the member called to order, he shall be at liberty to proceed; if otherwise, he shall not be permitted to proceed, in case any member object, without leave of the House; and, if the case require it, he shall be liable to the censure of the House.

30. If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the clerk's table; and no member shall be held to answer, or be subject to the censure of the House, for words spoken in debate, if any other member has spoken, or other business has intervened, after the words spoken, and before exception to them shall have been taken.

31. When two or more members happen to rise

at once, the Speaker shall name the member who is first to speak.

32. No member shall speak more than once to the same question, without leave of the House, unless he be the mover, proposer, or introducer, of the matter pending; in which case he shall be permitted to speak in reply, but not until every member choosing to speak shall have spoken.

33. If a question depending be lost by adjournment of the House, and revived on the succeeding day, no member, who shall have spoken on the preceding day, shall be permitted again to speak without leave.

34. While the Speaker is putting any question, or addressing the House, none shall walk out of, or across the House; nor, in such case, or when a member is speaking, shall entertain private discourse; nor, while a member is speaking, shall pass between him and the Chair. Every member shall remain uncovered during the session of the House. No member or other person shall visit or remain by the clerk's table while the ayes and noes are calling, or ballots are counting.

35. No member shall vote on any question in the event of which he is immediately and particularly interested, or in any case where he was not within the bar of the House when the question was put. And when any member shall ask leave to vote, the Speaker shall propound to him the question—" *Were you within the bar when your name was called?* "

36. Upon a division and count of the House on

any question, no member without the bar shall be counted.

37. Every member who shall be in the House when the question is put shall give his vote, unless the House, for special reasons, shall excuse him. All motions to excuse a member from voting shall be made before the House divides, or before the call of the yeas and nays is commenced; and any member requesting to be excused from voting may make a brief verbal statement of the reasons for making such request, and the question shall then be taken without further debate.

38. When a motion is made and seconded, it shall be stated by the Speaker; or, being in writing, it shall be handed to the Chair, and read aloud by the clerk before debated.

39. Every motion shall be reduced to writing, if the Speaker or any member desire it.

40. After a motion is stated by the Speaker, or read by the clerk, it shall be deemed to be in the possession of the House, but may be withdrawn at any time before a decision or amendment.

41. When a question is under debate, no motion shall be received but to adjourn, to lie on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged; and no motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided, shall again be allowed on the same day, and at the same stage of the bill or proposition. A motion to strike out the enacting words of a bill shall

have precedence of a motion to amend; and, if carried, shall be considered equivalent to its rejection.

42. When a resolution shall be offered, or a motion made, to refer any subject, and different committees shall be proposed, the question shall be taken in the following order:

The Committee of the Whole House on the state of the Union; the Committee of the Whole House; a Standing Committee; a Select Committee.

43. A motion to adjourn, and a motion to fix the day to which the House shall adjourn, shall be always in order: these motions, and the motion to lie on the table, shall be decided without debate.

44. The hour at which every motion to adjourn is made shall be entered on the journal.—(*Oct. 9th, 1837.*)

45. The previous question shall be in this form: "Shall the main question be now put?" It shall only be admitted when demanded by a majority of the members present; and its effects shall be to put an end to all debate, and bring the House to a direct vote upon amendments reported by a committee, if any, upon pending amendments, and then upon the main question. On a motion for the previous question, and prior to the seconding of the same, a call of the House shall be in order; but, after a majority shall have seconded such motion, no call shall be in order prior to a decision of the main question.

46. On a previous question there shall be no debate. All incidental questions of order arising

after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

47. When a question is postponed indefinitely, the same shall not be acted upon again during the session.

48. Any member may call for the division of a question, which shall be divided if it comprehend propositions in substance so distinct, that, one being taken away, a substantive proposition shall remain for the decision of the House. A motion to strike out and insert shall be deemed indivisible; but a motion to strike out being lost, shall preclude neither amendment, nor a motion to strike out and insert.

49. Motions and reports may be committed at the pleasure of the House.

50. No motion or proposition on a subject different from that under consideration, shall be admitted under colour of amendment \* (*March 13th, 1822.*) No bill or resolution shall, at any time, be amended by annexing thereto, or incorporating therewith any other bill or resolution pending before the House.† (*Sept. 15th, 1837.*)

\* This rule was originally established on the 7th of April, 1789, and was in these words: "No *new* motion or proposition shall be admitted under colour of amendment, as a *substitute* for the motion or proposition under debate." On the 13th of March, 1822, it was changed to its present form, in which the words "*new*" and "*substitute*" do not appear.

† The latter clause of this rule was adopted at the first session of the 25th Congress; and as originally reported by the committee, the following words were contained at the end of it; "*nor by any proposition containing THE SUBSTANCE, in whole or in part, of any other bill or resolution*"



51. When a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the re-consideration thereof on the same or the succeeding day; and such motion shall take precedence of all other questions, except a motion to adjourn.

52. When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the House.

53. The unfinished business in which the House was engaged at the last preceding adjournment shall have the preference in the orders of the day; and no motion on any other business shall be received, without special leave of the House, until the former is disposed of.

54. Every order, resolution, or vote, to which the concurrence of the Senate shall be necessary, shall be read to the House, and laid on the table, on a day preceding that in which the same shall be moved, unless the House shall otherwise expressly allow.

55. Petitions, memorials, and other papers, addressed to the House, shall be presented by the Speaker, or by a member in his place: a brief statement of the contents thereof shall be made verbally by the introducer: they shall not be debated on the day of their being presented, nor on any day assigned by the House for the receipt of

*pending before the House."* These words were *stricken out* by the House before it would agree to the rule; by which it would seem to be decided that a bill or resolution might be amended by incorporating therein the *substance* of any other bill or resolution before the House.

petitions, after the first thirty days of the session, unless where the House shall direct otherwise, nor shall lie on the table, to be taken in the order in which they were presented.

56. A proposition requesting information from the President of the United States, or directing to be furnished by the head of either of the Executive Departments, or of the Department-General, or to print an extra number of any document or other matter, transmitting messages of the President to both Houses of the Senate, and of each session of Congress, and the reports and documents connected with it, printed or to be printed, shall lie on the table, the day of introduction, and shall otherwise be referred to the appropriate committee of the House: and it shall be the duty of the clerk to take up for consideration in the order in which presented, and to read the title of each report, and from select committees, and to read the title of the clerk shall call the name of the committee.

57. Any member who shall be absent from the House, if there be any business to be transacted, or if the attendance of every member be necessary.

58. Upon call of the House, or of any of its yeas and nays on any question, the names of the members shall be called by the clerk.

59. Any member who shall be absent from the House, or from any committee of the House, or from any pointment, if he be called a member of any of the committees.

60. No member shall be absent from the service of the House, unless he shall be sick, or unable to attend.

61. Upon the call of the House, no member

the members shall be called over by the clerk, and the absentees noted; after which the names of the absentees shall again be called over: the doors shall then be shut, and those for whom no excuse, or insufficient excuses, are made, may, by order of those present, if fifteen in number, be taken into custody as they appear, or may be sent for and taken into custody, wherever to be found, by special messengers, to be appointed for that purpose.

62. When a member shall be discharged from custody, and admitted to his seat, the House shall determine whether such discharge shall be with or without paying fees; and, in like manner, whether a delinquent member, taken into custody by a special messenger, shall, or shall not, be liable to defray the expense of such special messenger.

63. A serjeant-at-arms shall be appointed, to hold his office during the pleasure of the House, whose duty it shall be to attend the House during its sittings; to execute the commands of the House from time to time; together with all such process, issued by authority thereof, as shall be directed to him by the Speaker.

64. The fees of the serjeant-at-arms shall be, for every arrest, the sum of two dollars; for each day's custody and releasement, one dollar; and for travelling expenses for himself or a special messenger, going and returning, one-tenth of a dollar per mile.

65. It shall be the duty of the serjeant-at-arms to keep the accounts for pay and mileage of members, to prepare checks, and, if required to do so,

to draw the money on such checks for the members, (~~the same~~ being previously signed by the Speaker, ~~and~~ endorsed by the member,) and pay over the same to the member entitled thereto. (*April 4th, 1838.*)

66. The serjeant-at-arms shall give bond, with surety, to the United States, in a sum not less than five, nor more than ten thousand dollars, at the discretion of the Speaker, and with such surety as the Speaker may approve, faithfully to account for the money coming into his hands for the pay of members. (*April 4th, 1838.*)

67. The serjeant-at-arms shall be sworn to keep the secrets of the House.

68. A door-keeper and an assistant door-keeper shall be appointed for the service of the House. (*April 2d, 1789.*)

69. The door-keeper and assistant door-keeper shall be sworn to keep the secrets of the House.

70. The postmaster to superintend the post-office kept in the Capitol for the accommodation of the members, shall hereafter be appointed by the House.\* (*April 4th, 1838.*)

\* Immediately after the organization of the Government under the present Constitution, a room was set apart in the Capitol for the reception and distribution of letters and packets to and from members of the House, without an order for that purpose, and was called the Post Office. It was superintended by the Doorkeeper and his Assistants. On the 9th of April, 1841, a special allowance was made to the Doorkeeper to meet the expenses of this office, and he was authorized to appoint a Postmaster. The office continued on this footing till April 4, 1838, when an order was passed, as above, for the appointment of the Postmaster by the House itself.

71. Twenty-seven standing committees shall be appointed at the commencement of each session, viz :

*To consist of nine members each.*

- A Committee of Elections.
- A Committee of Ways and Means.
- A Committee of Claims.
- A Committee on Commerce.
- A Committee on the Public Lands.
- A Committee on the Post Office and Post Roads.
- A Committee on the District of Columbia.
- A Committee on the Judiciary.
- A Committee on Revolutionary Claims.
- A Committee on Public Expenditures.
- A Committee on Private Land Claims.
- A Committee on Manufactures.
- A Committee on Agriculture.
- A Committee on Indian Affairs.
- A Committee on Military Affairs.
- A Committee on the Militia.
- A Committee on Naval Affairs.
- A Committee on Foreign Affairs.
- A Committee on the Territories.
- A Committee on Revolutionary Pensions.
- A Committee on Invalid Pensions.
- A Committee on Roads and Canals.

*To consist of five members each.*

- A Committee on Patents.
- A Committee on Public Buildings and Grounds.

**A Committee of Revisal and Unfinished Business.**

**A Committee of Accounts.**

**A Committee on Mileage.**

72. It shall be the duty of the Committee of Elections to examine and report upon the certificates of election, or other credentials, of the members returned to serve in this House ; and to take into their consideration all such petitions, and other matters, touching elections and returns, as shall or may be presented, or come into question, and be referred to them by the House.

73. It shall be the duty of the Committee of Ways and Means to take into consideration all such reports of the Treasury Department, and all such propositions relative to the revenue, as may be referred to them by the House ; to inquire into the state of the public debt or the revenue, and of the expenditure ; and to report, from time to time, their opinion thereon [to examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws ; and also to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the departments, and the accountability of their officers.\*]

\* That portion of the duty of the Committee of Ways and Means which is printed within brackets was, originally, adopted on the 7th of January, 1802. On the 26th February, 1814, the Committee on Public Expenditures was created, and added to the list of standing committees ; the du-

In preparing bills of appropriations for other objects, the Committee of Ways and Means shall not include appropriations for carrying into effect treaties made by the United States; and, where an appropriation bill shall be referred to them for their consideration, which contains appropriations for carrying a treaty into effect, and for other objects, they shall propose such amendments as shall prevent appropriations for carrying a treaty into effect being included in the same bill with appropriations for other objects.

74. It shall also be the duty of the Committee of Ways and Means, within thirty days after their appointment, at every session of Congress, commencing on the first Monday of December, to report the general appropriation bills—for the civil and diplomatic expenses of Government; for the army; for the navy; and for the Indian Department and Indian annuities; or, in failure thereof, the reasons of such failure.

75. General appropriation bills shall be in order, in preference to any other bills of a public nature, unless otherwise ordered by a majority of the House.

76. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, (*Sept. 14th, 1837,*) un-

ties of this latter committee are exactly those contained in that portion of the duties of the Committee of Ways and Means which are referred to in this note as within brackets; (see rule 84.) The words ought to be stricken from the specification of the duties of the Committee of Ways and Means.

less in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government. (*May 13th, 1838.*)

77. It shall be the duty of the Committee of Claims to take into consideration all such petitions and matters or things touching claims and demands on the United States, as shall be presented, or shall or may come in question, and be referred to them by the House; and to report their opinion thereupon, together with such propositions for relief therein as to them shall seem expedient.

78. It shall be the duty of the Committee on Commerce to take into consideration all such petitions and matters or things touching the commerce of the United States, as shall be presented, or shall or may come into question, and be referred to them by the House; and to report, from time to time, their opinion thereon.

79. It shall be the duty of the Committee on the Public Lands to take into consideration all such petitions and matters or things respecting the lands of the United States, as shall be presented, or shall or may come in question, and be referred to them by the House; and to report their opinion thereon, together with such propositions for relief therein as to them shall seem expedient.

80. It shall be the duty of the Committee on the Post Office and Post Roads to take into consideration all such petitions and matters or things *touching the Post Office and post roads, as shall*



be presented, or may come in question, and be referred to them by the House; and to report their opinion thereupon, together with such propositions relative thereto as to them shall seem expedient.

81. It shall be the duty of the Committee for the District of Columbia to take into consideration all such petitions and matters or things touching the said District as shall be presented, or shall come in question, and be referred to them by the House; and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient.

82. It shall be the duty of the Committee on the Judiciary to take into consideration such petitions and matters or things touching judicial proceedings as shall be presented, or may come in question, and be referred to them by the House; and to report their opinion thereupon, together with such propositions relative thereto as to them shall seem expedient.

83. It shall be the duty of the Committee on Revolutionary Claims to take into consideration all such petitions and matters or things touching claims and demands originating in the revolutionary war, or arising therefrom, as shall be presented, or shall or may come in question, and be referred to them by the House; and to report their opinion thereupon, together with such propositions for relief therein as to them shall seem expedient.

84. It shall be the duty of the Committee on Public Expenditures to examine into the state of the several public departments, and particularly

into laws making appropriations of money, and to report whether the moneys have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the departments, and the accountability of their officers.\*

85. It shall be the duty of the Committee on Private Land Claims to take into consideration all claims to land which may be referred to them, or shall or may come in question; and to report their opinion thereupon, together with such propositions for relief therein as to them shall seem expedient.

86. It shall be the duty of the Committee on Military Affairs to take into consideration all subjects relating to the military establishment and public defence, which may be referred to them by the House, and to report their opinion thereupon; and also to report, from time to time, such measures as may contribute to economy and accountability in the said establishment.

87. It shall be the duty of the Committee on the Militia to take into consideration and report on all subjects connected with the organizing, arming, and disciplining, the militia of the United States.

\* See note to rule 73.—And further, on the 30th March, 1816, six committees on expenditures in the several departments of the Government were created and added to the list of standing committees. The duties assigned to these several committees would seem entirely the duties of the Committee on Public Expenditures. (See Rules 90 and 100.)

88. It shall be the duty of the Committee on Naval Affairs to take into consideration all matters which concern the naval establishment, and which shall be referred to them by the House, and to report their opinion thereupon; and also to report, from time to time, such measures as may contribute to economy and accountability in the said establishment.

89. It shall be the duty of the Committee on Foreign Affairs to take into consideration all matters which concern the relations of the United States with foreign nations, and which shall be referred to them by the House, and to report their opinion on the same.

90. It shall be the duty of the Committee on the Territories to examine into the legislative, civil, and criminal proceedings of the Territories, and to devise and report to the House such means as, in their opinion, may be necessary to secure the rights and privileges of residents and non-residents.

91. It shall be the duty of the Committee on Revolutionary Pensions to take into consideration all such matters respecting pensions for services in the revolutionary war, other than invalid pensions, as shall be referred to them by the House.

92. It shall be the duty of the Committee on Invalid Pensions to take into consideration all such matters respecting invalid pensions as shall be referred to them by the House.

93. It shall be the duty of the Committee on Roads and Canals to take into consideration all such petitions and matters or things relating to roads and canals, and the improvement of the na-

avigation of rivers, as shall be presented, or may come in question, and be referred to them by the House, and to report thereupon; together with such propositions relative thereto as to them shall seem expedient.

94. It shall be the duty of the Committee on Patents to consider all subjects relating to patents which may be referred to them, and report their opinion thereon; together with such propositions relative thereto as may seem to them expedient.

95. It shall be the duty of the Committee on Public Buildings and Grounds to consider all subjects relating to the public edifices and grounds within the city of Washington which may be referred to them, and report their opinion thereon; together with such propositions relating thereto as may seem to them expedient.

96. It shall be the duty of the Committee of Revisal and Unfinished Business to examine and report what laws have expired, or are near expiring, and require to be revived or further continued; also, to examine and report, from the Journal of last session, all such matters as were then depending and undetermined.

97. It shall be the duty of the Committee of Accounts to superintend and control the expenditures of the contingent fund of the House of Representatives, and to audit and settle all accounts which may be charged thereon; and also to audit the accounts of the members for their travel to and from the seat of Government, and their attendance in the House.\*

\* So much of the rule as directs the Committee of Accounts to audit and settle the mileage and daily pay of the

98. It shall be the duty of the Committee on Mileage to ascertain and report the distance, to the Serjeant-at-arms, for which each member shall receive pay.

99. Six additional standing committees shall be appointed at the commencement of the first session in each Congress, whose duties shall continue until the first session of the ensuing Congress :

*To consist of five members each.*

1. A committee on so much of the public accounts and expenditures as relate to the Department of State ;

2. A committee on so much of the public accounts and expenditures as relate to the Treasury Department ;

3. A committee on so much of the public accounts and expenditures as relate to the Department of War ;

4. A committee on so much of the public accounts and expenditures as relate to the Department of the Navy ;

5. A committee on so much of the public accounts and expenditures as relate to the Post Office ; and,

6. A committee on so much of the public ac-

members, was adopted at the 1st session 12th Congress, (1849.) At the 1st session of the 25th Congress, (1837,) a Standing Committee on Mileage was created for the especial purpose of ascertaining and reporting the mileage for which each member shall receive pay. (See Rule 98.)

**counts and expenditures as relate to the Public Buildings ;**

**100. It shall be the duty of the said committees to examine into the state of the accounts and expenditures respectively submitted to them, and to inquire and report particularly—**

**Whether the expenditures of the respective departments are justified by law ;**

**Whether the claims from time to time satisfied and discharged by the respective departments are supported by sufficient vouchers, establishing their justness both as to their character and amount ;**

**Whether such claims have been discharged out of funds appropriated therefor, and whether all moneys have been disbursed in conformity with appropriation laws ; and**

**Whether any, and what, provisions are necessary to be adopted, to provide more perfectly for the proper application of the public moneys, and to secure the Government from demands unjust in their character, or extravagant in their amount.**

**And it shall be, moreover, the duty of the said committees to report from time to time whether any, and what, retrenchment can be made in the expenditures of the several departments, without detriment to the public service ; whether any, and what, abuses at any time exist in the failure to enforce the payment of moneys which may be due to the United States from public defaulters or others ; and to report, from time to time, such provisions and arrangements as may be necessary**

to add to the economy of the several departments, and the accountability of their officers.\*

101. The several standing committees of the House shall have leave to report by bill or otherwise.

102. No committee shall sit during the sitting of the House, without special leave.

103. It shall be the duty of the Clerk to make, and cause to be printed, and delivered to each member at the commencement of every session of Congress, a list of the reports which it is the duty of any officer or department of the Government to make to Congress; referring to the act or resolution, and page of the volume of the laws or Journal, in which it may be contained; and placing under the name of each officer the list of reports required of him to be made, and the time when the report may be expected.

104. It shall be the duty of the Clerk of the House, at the end of each session, to send a printed copy of the Journals thereof to the Executive, and to each branch of the Legislature of every State.

105. All questions of order shall be noted by the Clerk, with the decision, and put together at the end of the Journal of every session.

106. Whenever confidential communications are received from the president of the United States, the house shall be cleared of all persons, except the members, clerk, serjeant-at-arms, and door-keeper, and so continue during the reading of such communications, and (unless otherwise di-

\* See note to Rule 73.

rected by the House) during all debates and proceedings to be had thereon. And when the speaker, or any other member shall inform the House that he has communications to make, which he conceives ought to be kept secret, the House shall in like manner be cleared, till the communication be made; the House shall then determine whether the matter communicated requires secrecy or not, and take order accordingly.

107. All questions relating to the priority of business to be acted on shall be decided without debate.

### *Of Bills.*

108. Every bill shall be introduced on the report of a committee, or by motion for leave. In the latter case, at least one day's notice shall be given of the motion; and the motion shall be made, and the bill introduced, if leave is given when resolutions are called for: such motion, or the bill when introduced, may be committed.

109. Every bill shall receive three several readings in the House, previous to its passage; and bills shall be despatched in order as they were introduced, unless where the House shall direct otherwise; but no bill shall be twice read on the same day, without special order of the house.

110. The first reading of a bill shall be for information; and, if opposition be made to it, the question shall be, "Shall this bill be rejected?" If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question.



111. Upon the second reading of a bill, the speaker shall state it as ready for commitment or engrossment; and if committed, then a question shall be, whether to a select or standing committee, or to a committee of the whole house: if to a committee of the whole house, the house shall determine on what day; if no motion be made to commit, the question shall be stated on its engrossment; and if it be not ordered to be engrossed on the day of its being reported, it shall be placed in the general file on the speaker's table; to be taken up in its order. But, if the bill be ordered to be engrossed, the house shall appoint the day when it shall be read the third time.

112. Not more than three bills, originating in the house, shall be committed to the same committee of the whole; and such bills shall be analogous in their nature, which analogy shall be determined by the speaker.

113. After commitment and report thereof to the house, or at any time before its passage, a bill may be recommitted.

114. All bills ordered to be engrossed shall be executed in a fair round hand.

115. No amendment by way of *rider* shall be received to any bill on its third reading.

116. When a bill shall pass, it shall be certified by the clerk, noting the day of its passage at the foot thereof.

### *Of Committees of the Whole House.*

117. It shall be a standing order of the day, throughout the session, for the house to resolve

itself into a committee of the whole house on the state of the Union.

118. In forming a committee of the whole house, the speaker shall leave his chair, and a chairman to preside in committee, shall be appointed by the speaker.

119. Upon bills committed to a committee of the whole house, the bill shall be first read throughout by the clerk, and then again read and debated by clauses, leaving the preamble to be last considered: the body of the bill shall not be defaced or interlined; but all amendments, noting the page and line, shall be duly entered by the clerk on a separate paper, as the same shall be agreed to by the committee, and so reported to the house. After report, the bill shall again be subject to be debated and amended by clauses before a question to engross it be taken.

120. All amendments made to an original motion in committee shall be incorporated with the motion, and so reported.

121. All amendments made to a report committed to a committee of the whole house shall be noted and reported, as in the case of bills.

122. All questions, whether in committee or in the house, shall be propounded in the order in which they were moved, except that in filling up blanks, the largest sum and longest time shall be first put.

123. No motion or proposition for a tax or charge upon the people shall be discussed the day in which it is made or offered; and every such proposition shall receive its first discussion in a committee of the whole house.

124. No sum or quantum of tax or duty, voted by a committee of the whole house, shall be increased in the House until the motion or proposition for such increase shall be first discussed and voted in a committee of the whole house; and so in respect to the time of its continuance.

125. All proceedings touching appropriations of money shall be first discussed in a committee of the whole house.

126. The rules of proceedings in the House shall be observed in a committee of the whole house, so far as they may be applicable, except the rule limiting the time of speaking; but no member shall speak twice to any question, until every member choosing to speak shall have spoken.

127. No standing rule or order of the house shall be rescinded or changed without one day's notice being given of the motion therefor. Nor shall any rule be suspended, except by a vote of at least two-thirds of the members present. Nor shall the order of business, as established by the rules of the house, be postponed or changed, except by a vote of at least two-thirds of the members present.

*Resolved*, That so much of the 127th rule of the House as is in the following words, to wit: "Nor shall any rule be suspended except by a vote of at least two-thirds of the members present," be, and hereby is, so far rescinded and changed, that the House may, at any time, by a vote of a majority of the members present, suspend the rules and orders of the House for the purpose of going into Committee of the Whole on the state of the Union. (June 1st, 1840.—See *Journal* 1st session 26th Congress, p. 1071.)

128. It shall be in order for the committee on enrolled bills to report at any time.

129. The rules of parliamentary practice, comprised in Jefferson's *Manual*, shall govern the house in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the house, and the joint rules of the Senate and House of Representatives.

130. No person shall be permitted to perform divine service in the chamber occupied by the House of Representatives, unless with the consent of the speaker.

131. The rule for paying witnesses summoned to appear before this house, or either of its committees, shall be as follows: for each day a witness shall attend, the sum of two dollars; for each mile he shall travel in coming to or going from the place of examination, the sum of ten cents each way; but nothing shall be paid for travelling home when the witness has been summoned at the place of trial,

132. The clerk shall, within thirty days after the close of each session of congress, cause to be completed the printing and primary distribution, to members and delegates, of the Journal of the house, together with an accurate index to the same.—(*Order of June 18th, 1832.*)

133. There shall be retained in the library of the clerk's office, for the use of the members there, and not to be withdrawn therefrom, two copies of all the books and printed documents deposited in the library.—(*Order of December 22nd, 1826.*)

134. The clerk shall have preserved for each

member of the house, an extra copy, in good binding, of all the documents printed by order of either house at each future session of congress.—(*Order of Feb. 9th, 1831.*)

135. The clerk shall make a weekly statement of the resolutions and bills (senate bills inclusive) upon the speaker's table, accompanied with a brief reference to the orders and proceedings of the House upon each, and the date of such order and proceedings; which statement shall be printed for the use of the members.—(*Order of April 21st, 1836.*)

136. The clerk shall cause an index to be prepared to the acts passed at every session of congress, and to be printed and bound with the acts. (*July 4th, 1832.*)

137. The clerk shall take proper measures for the care and preservation of the public stable provided for the business and accommodation of the House of Representatives.—(*July 9th, 1838.*)

138. The unappropriated rooms in that part of the capitol assigned to the house, shall be subject to the order and disposal of the speaker, until the further order of the House. (*May 26, 1824.*)

139. Maps accompanying documents shall not be printed, under the general order to print, without the special direction of the House.—*March 2d, 1837; Sept. 11th, 1837.*

140. No committee shall be permitted to employ a clerk at the public expense, without first obtaining leave of the House for that purpose.—(*Dec. 14th, 1838.*)

**MANUAL**  
**OF**  
***Parliamentary Practice,***  
**FOR**  
**THE USE OF THE SENATE**  
**OF THE**  
**UNITED STATES.**

**EXTRACT FROM THE RULES OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES.**

The rules of parliamentary practice, comprised in Jefferson's Manual, shall govern the house in all cases to which they are applicable; and in which they are not inconsistent with the standing rules and orders of the house, and the joint rules of the Senate and House of Representatives.  
(Adopted Sept. 15th 1837,)

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# PREFACE.

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The Constitution of the United States, establishing a legislature for the Union under certain forms, authorizes each branch of it 'to determine the rules of its own proceedings.' The Senate have accordingly formed some rules for its own government: but these going only to few cases, they have referred to the decision of their President, without debate and without appeal, all questions of order arising either under their own rules, or where they have provided none. This places under the discretion of the President a very extensive field of decision, and one which, irregularly exercised, would have a powerful effect on the proceedings and determinations of the House. The President must feel, weightily and seriously this confidence in his discretion; and the necessity of recurring, for its government, to some known system of rules, that he may neither leave himself free to indulge caprice or passion, nor open to the imputation of them. But to what system of rules is he to recur, as supplementary to those of the Senate? To this there can be but one answer. To the system of regulations adopted for the government of some one of the parliamentary bodies within these States, or of that which has served as a prototype to most of them. This last is the model which we have all studied, while we are little acquainted with the modifications of it in our several states. It is deposited,

too, in publications possessed by many, and open to all. Its rules are probably as wisely constructed for governing the debates of a considerative body, and obtaining its true sense, as any which can become known to us; and the acquiescence of the senate, hitherto, under the references to them, has given them the sanction of their approbation.

Considering, therefore, the law of proceedings in the senate as composed of the precepts of the constitution, ~~the~~ regulations of the senate, and where these are silent, of the rules of parliament, I have here endeavoured to collect and digest so much of these as is called for in ordinary practice, collating the parliamentary with the senatorial rules, both where they agree and where they vary. I have done this, as well to have them at hand for my own government as to deposite with the senate the standard by which I judge, and am willing to be judged. I could not doubt the necessity of quoting the sources of my information; among which Mr. Hatsel's most valuable book is pre-eminent; but as he has only treated some general heads, I have been obliged to recur to other authorities in support of a number of common rules of practice, to which his plan did not descend. Sometimes each authority cited supports the whole passage. Sometimes it rests on all taken together. Sometimes the authority goes only to a part of the text, the residue being inferred from known rules and principles. For some of the most familiar forms no written authority is, or can be quoted: no writer having supposed it necessary to repeat what all were presumed to know. The statement of these must rest on their notoriety.

I am aware that authorities can often be produced in opposition to the rules which I lay down as parliamentary. An attention to dates will generally remove their weight. The proceedings of parliament in ancient times and for a long while, were crude, multiform, and embarrassing. They have been, however, constantly advancing towards uniformity and accuracy, and have now attained a degree of aptitude to their object beyond which little is to be desired or expected.

Yet I am far from the presumption of believing that I may not have mistaken the parliamentary practice in some cases, and especially in those minor forms, which, being practiced daily, are supposed known to every body, and therefore have not been committed to writing. Our resources, in this quarter of the globe, for obtaining information on that part of the subject, are not perfect. But I have begun a sketch, which those who come after me will successively correct and fill up, till a code of rules shall be formed for the use of the senate, the effects of which may be accuracy in business, economy of time, order, uniformity, and impartiality.

**NOTE**—The rules and practices peculiar to the **SENATE**, are printed between brackets [ ].

Those of **PARLIAMENT** are not so distinguished.

# **A MANUAL**

**OF**

## **PARLIAMENTARY PRACTICE.**

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### **IMPORTANCE OF RULES.**

#### **SEC. 1—THE IMPORTANCE OF ADHERING TO RULES.**

Mr. Onslow, the ablest among the speakers of the House of Commons, used to say, “it was a maxim he had often heard when he was a young man, from old and experienced members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding: that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were in many instances, a shelter and protection to the minority, against the attempts of power.” So far the maxim is certainly true, and is founded in good sense, that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power, are the forms and rules of

proceeding, which have been adopted as they were found necessary, from time to time, and are become the law of the House; by a strict adherence to which, the weaker party can only be protected from those irregularities and abuses, which these forms were intended to check, and which the wantonness of power is but too often apt to suggest to large and successful majorities. 2 *Hats.* 171; 172.

And whether these forms be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by, than what that rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the speaker, or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body. 2. *Hats.* 149.

## SEC. II.—LEGISLATURE.

[All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. *Constitution of the United States, Art. 1, Sect. 1.*]

[The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. *Constitution of the United States, Art. 1. Sect. 6.*]

[For the powers of Congress, see the following Articles and Sections of the Constitution of the United States. I. 4. 7. 8. 9. II. 1. 2. III. 3. IV. 1. 3. 5. and all the amendments.]

## SEC. III.—PRIVILEGE.

The Privileges of Members of Parliament, from small and obscure beginnings, have been advancing for centuries with a firm and never yielding pace. Claims seem to have been brought forward, from time to time, and repeated, till some example of their admission enabled them to build law on that example. We can only therefore state the points of progression at which they now are. It is now acknowledged, 1st. That they are at all times exempted from question elsewhere for any thing said in their own house; that during the time of privilege, 2d. Neither a member himself, his\* wife, or his servants, (*familiares sui*) for any matter of their own, may be† arrested on mesne process, in any civil suit: 3d. Nor be detained under execution, though levied before time of privilege; 4th. Nor impleaded, cited, or subpoenaed in any court: 5th. Nor summoned as a witness or juror: 6th. Nor may their lands or goods be distrained: 7th. Nor their persons assaulted, or characters traduced. And the period of time, covered, by privilege, before and after the session, with the practice of short prorogations under the connivance of the crown, amounts in fact to a perpetual protection against the course of justice. In one instance indeed it has been relaxed by the 10 G. 3, c. 50, which permits judiciary proceedings to go on against them. That these privileges must be continually progressive, seems to result from their rejecting all definition

\* Order of the house of commons, 1663, July, 16.

† Elsyng 217, 1 Hats. 21. 1 Grey's Deb. 133.

of them, the doctrine being that "their dignity and independence are preserved by keeping their privileges indefinite; and that 'the maxims upon which they proceed, together with the method of proceeding, rest entirely in their own breast, and are not defined and ascertained by any particular stated laws.'" 1 *Blackst.* 163, 164.

[It was probably from this view of the encroaching character of privilege, that the framers of our Constitution, in their care to provide that the laws shall bind equally on all and especially that those who make them shall not exempt themselves from their operation, have only privileged "senators and representatives" themselves from the single act of "arrest in all cases, except treason, felony and breach of the peace, during their attendance at the session of their respective houses, and in going to and returning from the same, and from being questioned in any other place for any speech or debate in either house." *Const. U. S., Art. 1, Sec. 6.* Under the general authority "to make all laws necessary and proper for carrying into execution the powers given them," *Const. U. S., Art. 2, Sec. 8,* they may provide by law the details which may be necessary for giving full effect to the enjoyment of this privilege. No such law being as yet made, it seems to stand at present on the following ground, 1. The act of arrest is void *ab initio*.\* 2. The member arrested may be discharged on motion, 1 *Bl.* 166, 2 *Stra.* 990, or by habeas corpus under the federal or state authority, as the case may be; or by a writ of privilege out

\* 2 *Stra.* 989.



of the Chancery, 2. *Stra.* 989, in those states which have adopted that part of the laws of England.—*Orders of the House of Commons*, 1550, February 20. 3. The arrest being unlawful, is a trespass for which the officer and others concerned are liable to action or indictment in the ordinary courts of justice, as in other cases of unauthorised arrest. 4. The court before which the process is returnable is bound to act as in other cases of unauthorised proceeding, and liable also, as in other similar cases, to have their proceedings stayed or corrected by the superior courts.]

[The time necessary for going to, and returning from, congress, not being defined, it will, of course, be judged of in every particular case by those who will have to decide the case.] While privilege was understood in England to extend, as it does here, only to exemption from arrest, *eundo*, *morando*, *et redeundo*, the house of commons themselves decided that “a convenient time was to be understood.” (1580,) 1 *Hats.* 99, 100. Nor is the law so strict in point of time as to require the party to set out immediately on his return, but allows him time to settle his private affairs, and to prepare for his journey; and does not even scan his road very nicely, nor forfeit his protection for a little deviation from that which is most direct; some necessity perhaps constraining him to it. 2 *Stra.* 986, 987.

This privilege from arrest, privileges of course against all process the disobedience to which is punishable by an attachment of the person; as a *subpœna ad respondendum*, or *testificandum*, or a *summons* on a jury; and with reason; because a

member has superior duties to perform in another place. [ When a representative is withdrawn from his seat by summons, the 40,000 people whom he represents lose their voice in debate and vote, as they do on his voluntary absence: when a senator is withdrawn by summons, his state loses half its voice in debate and vote, as it does on his voluntary absence. The enormous disparity of evil admits no comparison.]

[So far there will probably be no difference of opinion as to the privileges of the two houses of congress; but in the following cases it is otherwise. In December, 1795, the house of representatives committed two persons of the name of Randall and Whitney, for attempting to corrupt the integrity of certain members; which they considered as a contempt and breach of the privileges of the house; and the facts being proved, Whitney was detained in confinement a fortnight, and Randall three weeks, and was reprimanded by the speaker. In March, 1796, the house of representatives voted a challenge given to a member of their house to be a breach of the privileges of the house; but satisfactory apologies and acknowledgements being made, no further proceeding was had. The editor of the Aurora having in his paper of February 19, 1800, inserted some paragraphs defamatory of the senate and failed in his appearance, he was ordered to be committed. In debating the legality of this order, it was insisted, in support of it, that every man, by the law of nature, and every body of men, possesses the right of self-defence; that all public functionaries are essentially invested with the powers of self-preservation.]

vation ; that they have an inherent right to do all acts necessary to keep themselves in a condition to discharge the trusts confided to them ; that whenever authorities are given, the means of carrying them into execution are given by necessary implication ; that thus we see the British parliament exercise the right of punishing contempts ; all the state legislatures exercise the same power ; and every court does the same ; that, if we have it not, we sit at the mercy of every intruder who may enter our doors or gallery, and, by noise and tumult, render proceeding in business impracticable ; that if our tranquillity is to be perpetually disturbed by newspaper defamation, it will not be possible to exercise our functions with the requisite coolness and deliberation ; and that we must therefore have a power to punish these disturbers of our peace and proceedings. To this it was answered, that the parliament and courts of England have cognizance of contempts by the express provisions of their law ; that the state legislatures have equal authority, because their powers are plenary ; they represent their constituents completely, and possess all their powers, except such as their constitutions have expressly denied them ; that the courts of the several states have the same powers by the laws of their states, and those of the federal government by the same state laws adopted in each state, by a law of congress ; that none of these bodies, therefore, derive those powers from natural or necessary right, but from express law ; that congress have no such natural or necessary power, nor any powers but such as are *given them by the Constitution* ; that that has

given them, directly, exemption from personal arrest, exemption from question elsewhere for what is said in their house, and power over their own members and proceedings; for these no further law is necessary, the constitution being the law; that, moreover, by that article of the constitution which authorises them "to make all laws necessary and proper for carrying into execution the powers vested by the constitution in them," they may provide by law for an undisturbed exercise of their function, e. g. for the punishment of contempts, of affrays or tumult in their presence, &c. but, till the law be made, it does not exist; and does not exist, from their own neglect; that, in the mean time, however, that they are not unprotected, the ordinary magistrates and courts of law being open and competent to punish all unjustifiable disturbances or defamations, and even their own serjeant, who may appoint deputies ad libitum to aid him, 3 *Grey*, 59, 147, 255, is equal to small disturbances; that in requiring a previous law, the constitution had regard to the inviolability of the citizen, as well as of the member; as should one house in the regular form of a bill, aim at too broad privileges, it may be checked by the other, and both by the president; and also as, the law being promulgated, the citizen will know how to avoid offence. But if one branch may assume its own privileges without control, if it may do it on the spur of the occasion, conceal the law in its own breast, and after the fact committed, make its sentence both the law and the judgment on that fact; if the offence is to be kept undefined, and to be declared only *ex re nata*, and accord-

ing to the passions of the moment, and there be no limitation either in the manner or measure of the punishment, the condition of the citizen will be perilous indeed. Which of these doctrines is to prevail, time will decide. Where there is no fixed law, the judgment on any particular case is the law of that single case only, and dies with it. When a new and even a similar case arises, the judgment which is to make, and at the same time apply the law, is open to question and consideration, as are all new laws. Perhaps congress, in the mean time, in their care for the safety of the citizen, as well as that for their own protection, may declare by law what is necessary and proper to enable them to carry into execution the powers vested in them, and thereby hang up a rule for the inspection of all, which may direct the conduct of the citizen, and at the same time test the judgments they shall themselves pronounce in their own case.]

Privilege from arrest takes place by force of the election; and before a return be made a member elected may be named of a committee, and is to every intent a member, except that he cannot vote until he is sworn. *Memor.* 107, 108. *D'Ewes*, 642, col. 2. 643, col. 1. *Pet. Miscel. Parl.* 119. *Lex. Parl.* c. 25. 2 *Hats.* 22, 62.

Every man must, at his peril, take notice who are members of either house returned of record. *Lex. Parl.* 23. 4 *inst.* 24.

On complaint of a breach of privilege, the party may either be summoned, or sent for in custody of the serjeant. 1 *Grey*, 88, 95.

The privilege of a member is the privilege of

the house. If the member waive it without leave, it is a ground for punishing him, but cannot in effect waive the privilege of the house. 3 *Grey*, 140, 222.

For any speech or debate in either house, they shall not be questioned in any other place. *Const. U. S. I.* 6. *S. P. protest of the Commons to James I.* 1621. 2. *Rapin. No.* 54. *p.* 211, 212. But this is restrained to things done in the house in a parliamentary course. 1 *Rush.* 663. For he is not to have privilege contra morem parliamentarium, to exceed the bounds and limits of his place and duty. *Com. p.*

If an offence be committed by a member in the house, of which the house has cognizance, it is an infringement of their right for any person or court to take notice of it, till the house has punished the offender, or referred him to a due course. *Lex Parl.* 63.

Privilege is in the power of the house, and is a restraint to the proceeding of inferior courts; but not of the house itself. 2 *Nelson*, 450, 2 *Grey*, 399. For whatever is spoken in the house is subject to the censure of the house; and offences of this kind have been severely punished by calling the person to the bar to make submission, committing him to the tower, expelling the house, &c. *Scob.* 72. *L. Parl. c.* 22.

It is a breach of order for the speaker to refuse to put a question which is in order. 2 *Hats*, 175, 6. 5 *Grey*, 133.

And even in case of treason, felony and breach of the peace, to which privilege does not extend as to substance, yet in parliament a member is

privileged as to the mode of proceeding. The case is first to be laid before the house, that it may judge of the fact and of the grounds of the accusation, and how far forth the manner of the trial may concern their privilege. Otherwise it would be in the power of other branches of the government, and even of every private man, under pretence of treason, &c. to take any man from his service in the house, and so many, one after another, as would make the house what he pleaseth. *Dec. of the Com. on the King's declaring Sir John Hotham a traitor.* 4 *Rushw.* 586. So when a member stood indicted for felony, it was adjudged that he ought to remain of the house till conviction. For it may be any man's case; who is guiltless, to be accused and indicted of felony, or the like crime. 23 *El.* 1580 *D'Ewes*, 283. col. 1. *Lex Parl.* 133.

When it is found necessary for the public service to put a member under arrest, or when, on any public inquiry, matter comes out which may lead to effect the person of a member, it is the practice immediately to acquaint the house that they may know the reasons for such a proceeding, and take such steps as they think proper. 2 *Hats.* 259. Of which see many examples. *Ib.* 256, 257, 253. But the communication is subsequent to the arrest. 1 *Blackst.* 167.

It is highly expedient, says Hatsell, for the due preservation of the privileges of the separate branches of the legislature, that neither should encroach on the other, or interfere in any matter depending before them, so as to preclude, or even influence that freedom of debate, which is essential to a free council. They are therefore not to

take notice of any bills or other matters depending, or of votes that have been given, or of speeches which have been held, by the members of either of the other branches of the legislature, until the same have been communicated to them in the usual parliamentary manner. 2 *Hats*. 252, 4 *Inst*. 15, *Seld. Jud*. 53. Thus the king's taking notice of the bill, for suppressing soldier's, depending before the house? his proposing a provisional clause for a bill before it was presented to him by the two houses; his expressing displeasure against some persons for matters moved in parliament during the debate and preparation of a bill, were breaches of privilege; 2 *Nalson*, 743; and in 1783, December 17, it was declared a breach of fundamental privileges, &c. to report any opinion or pretended opinion of the king, on any bill or proceeding depending in either house of parliament, with a view to influence the votes of the members. 2 *Hats*. 251, 6.

#### SECT. IV.—ELECTIONS.

[The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators. *Const*. I. 4.]

[Each house shall be the judge of the elections, returns, and qualifications of its own members. *Const*. I. 5.]



## SECT. V.—QUALIFICATIONS.

[The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for six years, and each senator shall have one vote.]

[Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the end of the 2d year; of the second class at the expiration of the 4th year; and of the third class at the expiration of the 6th year; so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.]

[No person shall be a senator who shall not have attained to the age of 30 years, and been 9 years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen. *Const. I. 3.*]

[The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.]

[No person shall be a representative who shall not have attained to the age of 25 years, and been seven years a citizen of the United States, and

who shall not, when elected, be an inhabitant of that state in which he shall be chosen.]

[Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers; which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative. *Constitution of the U. States* 1. 2]

The provisional apportionments of representatives made in the constitution in 1787, and afterwards by congress, were as follows :

STATES.	1787 <sup>a</sup>	1790 <sup>b</sup>	1800 <sup>c</sup>	1810 <sup>d</sup>	1820 <sup>e</sup>	1830 <sup>f</sup>
Maine ( <i>g</i> )	0	0	0	0	7	8
New Hampshire.	3	4	5	6	6	5
Massachusetts	8	14	17	20	18	12
Rhode Island	1	2	2	2	2	2
Connecticut	5	7	7	7	6	6
Vermont	0	2	4	6	5	5
New York	6	10	17	27	34	40
New Jersey	4	5	6	6	6	6
Pennsylvania	8	13	18	23	26	28
Delaware	1	1	1	2	1	1
Maryland	6	8	9	9	9	8
Virginia	10	19	22	28	22	21
North Carolina	5	10	12	13	13	13
South Carolina	5	6	8	9	9	9
Georgia	3	2	4	6	7	9
Kentucky	0	2	6	10	12	13
Tennessee ( <i>h</i> )	0	0	3	6	9	13
Ohio ( <i>i</i> )	0	0	0	6	14	19
Louisiana ( <i>k</i> )	0	0	0	0	3	3
Indiana ( <i>l</i> )	0	0	0	0	3	7
Mississippi ( <i>m</i> )	0	0	0	0	1	2
Illinois ( <i>n</i> )	0	0	0	0	1	3
Alabama ( <i>o</i> )	0	0	0	0	3	5
Missouri ( <i>p</i> )	0	0	0	0	0	2
Michigan ( <i>q</i> )	0	0	0	0	0	0
Arkansas ( <i>r</i> )	0	0	0	0	0	0

(a) As per constitution.

(b) As per act of April 14, 1792, one representative for 33,000, first census.

(c) As per act of January 14, 1802, one representative for 33,000, second census.

(d) As per act of December 21, 1811, one representative for 35,000, third census.

(e) As per act of March 7, 1822, one representative for 40,000, fourth census.

(f) As per act of May 22, 1832, one representative for 47,700, fifth census.

[When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies. I. 2.]

[No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emo-

(g) Previous to the 3d March, 1820, Maine formed a part of Massachusetts, and was called the *District of Maine*, and its representatives are numbered with those of Massachusetts. By compact between Maine and Massachusetts, Maine became a separate and independent state, and by act of congress of 3d March, 1820, was admitted into the Union as such; the admission to take place on the 15th of the same month. On the 7th of April, 1820, Maine was declared entitled to seven representatives, to be taken from those of Massachusetts.

(h) Admitted under act of congress of June 1st, 1796, with one representative.

(j) Admitted under act of congress of April 30, 1802, with one representative.

(k) Admitted under act of congress of April 8, 1812, with one representative.

(l) Admitted under act of congress of December 11, 1816, with one representative.

(m) Admitted under act of congress of December 10, 1817, with one representative.

(n) Admitted under act of congress of December, 8, 1818, with one representative.

(o) Admitted under act of congress of December 14, 1819, with one representative.

(p) Admitted under act of congress of March 2, 1821, with one representative.

(q) Admitted under act of congress of January 26, 1837, with one representative.

(r) Admitted under act of congress of June 15, 1820, with one representative.

luments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office. *Const. I. 6.*]

#### SEC. VI—QUORUM.

[A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorised to compel the attendance of absent members, in such manner and under such penalties, as each house may provide. *Const. I. 5.*]

In general, the chair is not to be taken till a quorum for business is present; unless after due waiting, such a quorum be despaired of, when the chair may be taken and the house adjourned. And whenever, during business, it is observed that a quorum is not present, any member may call for the house to be counted, and being found deficient, business is suspended. 2 *Hats.* 125, 126.

[The president having taken the chair, and a quorum being present, the journal of the preceding day shall be read, to the end that any mistake may be corrected that shall have been made in the entries. *Rules of the Senate.*]

#### SEC. VII—CALL OF THE HOUSE.

On a call of the house, each person rises up as he is called and answereth; the absentees are then only noted, but no excuse to be made till the house be fully called over. Then the absentees are called a second time, and if still absent excuses are to be heard. *Ord. House of Commons, &c.*

They rise that their persons may be recognised; the voice in such a crowd, being an insufficient verification of their presence. But in so small a body as the senate of the United States, the trouble of rising cannot be necessary.

Orders for calls on different days may subsist at the same time. 2 *Hats.* 72.

#### SEC. VIII.—ABSENCE.

[No member shall absent himself from the service of the senate, without leave of the senate first obtained. And in case a less number than a quorum of the senate shall convene, they are hereby authorised to send the serjeant-at-arms, or any other person or persons by them authorised, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members respectively, unless such excuse for non-attendance shall be made, as the senate, when a quorum is convened, shall judge sufficient: and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the senate, at the legal time of meeting, as to each day of the session, after the hour is arrived, to which the senate stood adjourned. *Rule 8.*]

#### SEC. IX.—SPEAKER.

[The vice-president of the United States shall be president of the senate, but shall have no vote unless they be equally divided. *Constitution, I. 3*]

[The senate shall choose their officers, and also a *president pro tempore* in the absence of the vice

president, or when he shall exercise the office of president of the United States. *Constitution*, I. 3.]

[The house of representatives shall choose their speaker and other officers. *Const.* I. 2.]

When but one person is proposed, and no objection made, it has not been usual in parliament to put any question to the house; but without a question, the members proposing him conduct him to the chair. But if there be objection, or another proposed, a question is put by the clerk. 2 *Hats.* 158. As are also questions of adjournment. 6 *Grey*, 406. Where the house debated and exchanged messages and answers with the king for a week, without a speaker, till they were prorogued. They have done it *de die in diem* for 14 days. 1 *Chand.* 331, 335.

[In the senate, a president pro tempore in the absence of the vice-president is proposed and chosen by ballot. His office is understood to be determined on the vice-president's appearing and taking the chair, or at the meeting of the senate after the first recess.]

Where the speaker has been ill, other speakers pro tempore have been appointed. Instances of this, are 1 *H.* 4. Sir John Cheyney, and for Sir William Sturton, and in 15 *H.* 6. Sir John Tyrrel, in 1656, January 27, 1658. March 9, 1659. January 13.

Sir Job Charlton ill, Seymour chosen 1673, Feb. 18.

Seymour being ill, Sir Robert Sawyer chosen, 1678, April 15.

Sawyer being ill, Seymour chosen.

Not merely  
pro tempore  
1 *Chand.* 169  
276, 277.

Thorpe in execution, a new speaker chosen.— 31 *H. VI.* 3 *Grey*, 11, and Mar. 14 1694, Sir John Trevor chosen. There have been no later instances. 2 *Hats.* 161. 4 *Inst.* 8 *L. Parl.* 263.

A speaker may be removed at the will of the house, and a speaker pro tempore appointed.\* 2 *Grey*, 186. 5 *Grey*, 134.

#### SEC. X.—ADDRESS.

[The president shall, from time to time, give to the congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. *Const. II.* 3.]

A joint address of both houses of parliament is read by the speaker of the House of Lords.— It may be attended by both houses in a body, or by a committee from each house; or by the two speakers only. An address of the House of Commons only, may be presented by the whole house, or by the speaker, 9 *Grey*, 473. 1 *Chandler.* 298, 301; or by such particular members as are of the privy council. 2 *Hats.* 278.

#### SEC. XI.—COMMITTEES.

Standing Committees, as of privileges and elections, &c. are usually appointed at the first meeting, to continue through the session. The person first named is generally permitted to act as chair-

\* **RULE 23.** The vice-president or president of the senate, pro tempore, shall have the right to name a member to perform the duties of the chair; but such substitution shall not extend beyond an adjournment.



man. But this is a matter of courtesy ; every committee having a right to elect their own chairman, who presides over them, puts questions, and reports their proceedings to the house. 4 *Inst.* 11 12 *Scob.* 9. 1 *Grey*, 122.

At these committees the members are to speak standing, and not sitting : though there is reason to conjecture it was formerly otherwise. *D'Ewes*, 630. col. 1. 4 *Parl. Hist.* 440. 2 *Hats.* 77.

Their proceedings are not to be published, as they are of no force till confirmed by the house. *Rushw. part 3, vol. 2*, 74. 3 *Grey*, 401. *Scob.* 39. Nor can they receive a petition but through the house. 9 *Grey*, 412.

When a committee is charged with an inquiry, if a member prove to be involved, they cannot proceed against him, but must make a special report to the house : whereupon the member is heard in his place, or at the bar, or a special authority is given to the committee to inquire concerning him. 9 *Grey*, 523.

So soon as the house sits, and a committee is notified of it, the chairman is in duty bound to rise instantly, and the members to attend the service of the house. 2 *Nals.* 319

It appears that on joint committees of the lords and commons, each committee acted integrally in the following instances : 7 *Grey*, 261, 278, 285, 338. 1 *Chandler*, 357, 462. In the following instances it does not appear whether they did or not ; 6 *Grey*, 129. 7 *Grey*, 213, 229, 321.\*

\* **RULE 33.** The following standing committees, to consist of five members each, shall be appointed at the commence-

## SEC. XII.—COMMITTEE OF THE WHOLE.

The speech, messages, and other matters of great concernment, are usually referred to a committee of the whole house, 6 *Grey*, 311, where general principles are digested in the form of resolutions, which are debated and amended till they get into a shape which meets the approbation of a majority. These being reported and confirmed by the house, are then referred to one or more select committees, according as the subject divides itself into one or more bills. *Scob.* 36. 44. Propositions for any

ment of each session, with leave to report by bill or otherwise.

A Committee on Foreign Relations.

A Committee on Finance.

A Committee on Commerce.

A Committee on Manufactures.

A Committee on Agriculture.

A Committee on Military Affairs.

A Committee on the Militia.

A Committee on Naval Affairs.

A Committee on Public Lands.

A Committee on Private Land Claims.

A Committee on Indian Affairs.

A Committee of Claims.

A Committee on the Judiciary.

A Committee on the Post Office and Post Roads.

A Committee on Pensions.

A Committee on the District of Columbia.

A Committee of three members, whose duty it shall be to audit and control the contingent expenses of the Senate,

And a Committee, consisting of three members, whose duty it shall be to examine all bills, amendments, resolutions, or motions, before they go out of the possession of the Senate, and to make report that they are correctly engrossed; which report shall be entered on the Journal.

charge on the people are especially to be first made in a committee of the whole. 3 *Hats*. 127. The sense of the whole is better taken in committee, because in all committees every one speaks as often as he pleases. *Scob*. 49. They generally acquiesce in the chairman named by the speaker ; but, as well as all other committees, have a right to elect one, some member, by consent, putting the question. *Scob*. 36. 3 *Grey*, 301. The form of going from the House into committee, is for the speaker, on motion, to put the question that the house do now resolve itself into a committee of the whole to take under consideration such a matter, naming it. If determined in the affirmative, he leaves the chair, and takes a seat elsewhere, as any other member ; and the person appointed chairman seats himself at the clerk's table. *Scob*. 36. Their quorum is the same as that of the house ; and if a defect happens, the chairman, on a motion and question, rises, the speaker resumes the chair, and the chairman can make no other report than to inform the house of the cause of their dissolution. If a message is announced during a committee, the speaker takes the chair, and receives it, because the committee cannot. 2 *Hats*. 125, 126.

In a committee of the whole, the tellers on a division, differing as to numbers, great heats and confusion arose, and danger of a decision by the sword. The speaker took the chair, the mace was forcibly laid on the table ; whereupon, the members retiring to their places, the speaker told the house " he had taken the chair without an order, to bring the house into order." Some excepted against it ; but it was generally approved as the

only expedient to suppress the disorder. And every member was required, standing up in his place, to engage that he would proceed no further in consequence of what had happened in the grand committee, which was done. 3 *Grey*, 128.

A committee of the whole being broken up in disorder, and the chair resumed by the speaker without an order, the house was adjourned. The next day the committee was considered as thereby dissolved, and the subject again before the house; and it was decided in the house, without returning into committee. 3 *Grey*, 130.

No previous question can be put in a committee; nor can this committee adjourn as others may; but if their business is unfinished, they rise, on a question, the house is resumed, and the chairman reports that the committee of the whole, have, according to order, had under their consideration such a matter, and have made progress therein; but not having had time to go through the same, have directed him to ask leave to sit again. Whereupon a question is put on their having leave, and on the time the house will again resolve itself into a committee. *Scob.* 38. But if they have gone through the matter referred to them, a member moves that the committee may rise, and the chairman reports their proceeding to the house; which being resolved, the chairman rises, the speaker resumes the chair, the chairman informs him that the committee have gone through the business referred to them, and that he is ready to make report when the house shall think proper to receive it. If the house have time to receive it, there is usually a cry of "now, now," whereupon he makes the

report : but if it be late, the cry is “to-morrow, to-morrow,” or “on Monday, &c.,” or a motion is made to that effect, and a question put that it be received to-morrow, &c. *Scob.* 38.

In other things the rules of proceeding are to be the same as in the house, *Scob.* 39.

### SEC. XIII.—EXAMINATION OF WITNESSES.

Common fame is a good ground for the house to proceed by inquiry, and even to accusation. *Resolution, house commons, 1 Car. 1625. Rush. L. Parl.* 115. 1 *Grey*, 16—22, 92. 8 *Grey*, 21, 23, 27, 45.

Witnesses are not to be produced but where the house has previously instituted an inquiry, 2 *Hats.* 102, nor then are orders for their attendance given blank. 3 *Grey*, 51.

When any person is examined before a committee, or at the bar of the house, any member wishing to ask the person a question, must address it to the speaker or chairman, who repeats the question to the person, or says to him, “you hear the question, answer it.” But if the propriety of the question be objected to, the speaker directs the witness, counsel and parties, to withdraw ; for no question can be moved or put, or debated while they are there. 2 *Hats.* 108. Sometimes the questions are previously settled in writing before the witness enters. *Ib.* 106, 107. 8 *Grey*, 64. The question asked must be entered in the journals. 8 *Grey*, 81. But the testimony given in answer before the house is never written down ; but before a committee it must be, for the information of the house who are not present to hear it. 7 *Grey*, 52, 334.

If either house have occasion for the presence of a person in custody of the other, they ask the other their leave that he may be brought up to them in custody. 3 *Hats.* 52.

A member, in his place, gives information to the house of what he knows of any matter under hearing at the bar. *Jour. of H. C. Jan. 22, 1744–5.*

Either house may request, but not command the attendance of a member of the other. They are to make the request by message to the other house, and to express clearly the purpose of attendance, that no improper subject of examination may be tendered to him. The house then gives leave to the member to attend, if he choose it: waiting first to know from the member himself whether he chooses to attend, till which they do not take the message into consideration. But when the peers are setting as a court of criminal judicature, they may order attendance; unless where it be a case of impeachment by the commons. There it is to be a request. 3 *Hats.* 17. 9 *Grey*, 306, 406. 10 *Grey*, 133.

Counsel are to be heard only on private, not on public bills, and on such points of law only as the house shall direct. 10 *Grey*, 61.

#### SEC. XIV.—ARRANGEMENT OF BUSINESS.

The speaker is not precisely bound to any rules as to what bills or other matter shall be first taken up; but is left to his own discretion, unless the house on a question decide to take up a particular subject. *Hakew.* 136.

A settled order of business is, however, necessary for the government of the presiding person,

may be moved at any time, when no question is before the House. Such are original motions, and reports on bills. Such are bills from the other House, which are received at all times, and receive their first reading as soon as the question then before the House is disposed of; and bills brought in on leave, which are read first whenever presented. So messages from the other house, respecting amendments to bills, are taken up as soon as the house is clear of a question, unless they require to be printed, for better consideration. Orders of the day may be called for, even when another question is before the House.]

#### SEC. XV.—ORDER.

[Each house may determine the rules of its proceedings; punish its members for disorderly behaviour; and, with the concurrence of two-thirds, expel a member. *Const.* l. 5.

In parliament, “instances make order,” per speaker Onslow. 2 *Hats.* 141. But what is done only by one parliament, cannot be called custom of parliament, by Prynne. 1 *Grey*, 52.

#### SEC. XVI.—ORDER RESPECTING PAPERS.

The clerk is to let no journals, records, accounts, or papers, be taken from the table, or out of his custody. 2 *Hats.* 193, 194.

Mr. Prynne having at a committee of the whole amended a mistake in a bill without order or knowledge of the committee, was reprimanded. 1 *Chand.* 77.

A bill being missing, the House resolved that a protestation should be made and subscribed by the members, “before Almighty God, and this

honourable House, that neither myself, nor any other, to my knowledge, have taken away, or do at this present conceal a bill entitled," &c. 5 *Grey*, 202.

After a bill is engrossed, it is put into the Speaker's hands, and he is not to let any one have it to look into. *Town. col.* 209.

#### SEC XVII.—ORDER IN DEBATE.

When the Speaker is seated in his chair, every member is to sit in his place. *Scob.* 6. *Grey.* 403.

When any member means to speak, he is to stand up in his place, uncovered, and to address himself, not to the House, or any particular member, but to the Speaker, who calls him by his name, that the House may take notice who it is that speaks. *Scob.* 6. *D'Ewes*, 487. *Col.* 1. 2 *Hats.* 77. 4 *Grey*, 66. 8 *Grey*, 108. But members who are indisposed may be indulged to speak sitting. 2 *Hats.* 75, 77. 1 *Grey*, 195.

[In Senate, every member, when he speaks, shall address the Chair standing in his place, and when he has finished, shall sit down. *Rule* 3.]

When a member stands up to speak, no question is to be put, but he is to be heard, unless the House overrule him. 4 *Grey*, 390. 5 *Grey*, 6, 143.

If two or more rise to speak nearly together, the Speaker determines who was first up, and calls him by name, whereupon he proceeds, unless he voluntarily sits down and gives way to the other. But sometimes the House does not acquiesce in the Speaker's decision, in which case the question is put, "which member was first up?" 2 *Hats.* 76. *Scob* 7. *D'Ewes*, 434. *col.* 1, 2.



[In the Senate of the United States, the president's decision is without appeal. Their rule is in these words: *when two members rise at the same time, the president shall name the person to speak: but in all cases, the member who shall first rise and address the chair, shall speak first. Rule 5.*]

No man may speak more than once to the same bill on the same day; or even on another day, if the debate be adjourned. But if it be read more than once in the same day, he may speak once at every reading. *Co.* 12, 115. *Hakew.* 148. *Scob.* 58. 2 *Hats.* 75. Even a change of opinion does not give a right to be heard a second time. *Smyth Comw. L.* 2, c. 3. *Arcan. Parl.* 17.

[The corresponding rule of Senate is in these words: no member shall speak more than twice, in any one debate, on the same day, without leave of the Senate. *Rule 4.*]

But he may be permitted to speak again to clear a matter of fact. 3 *Grey*, 357, 416. Or merely to explain himself, 2 *Hats.* 73, in some material part of his speech, *Ib.* 75, or to the manner or words of the question, keeping himself to that only, and not travelling into the merits of it; *Memorials in Hakew.* 29; or to the orders of the House, if they be transgressed, keeping within that line, and not falling into the matter itself. *Mem. Hakew.* 30, 31.

But if the Speaker rises to speak, the member standing up ought to sit down, that he may be first heard. *Town. col.* 205. *Hale parl.* 133. *Mem. in Hakew.* 30; 31. Nevertheless, though the Speaker may of right speak to matters of or-

der, and be first heard, he is restrained from speaking on any other subject, except where the House have occasion for facts within his knowledge; then he may, with their leave, state the matter of fact. 3 *Grey*, 38.

No one is to speak impertinently or beside the question, superfluously or tediously. *Scob.* 31, 33. 2 *Hats.* 166, 168. *Hale parl.* 133.

No person is to use indecent language against the proceedings of the House, no prior determination of which is to be reflected on by any member, unless he means to conclude with a motion to rescind it. 2 *Hats.* 169, 170. *Rushw. p.* 3. v. 1. fol. 42. But while a proposition under consideration is still in fieri, though it has even been reported by a committee, reflections on it are no reflections on the House. 9 *Grey*, 508.

No person in speaking, is to mention a member then present, by his name; but to describe him by his seat in the House, or who spoke last, or on the other side of the question, &c. *Men. in Hakew.* 3 *Smyth Comw. L.* 2, c. 3, nor to digress from the matter to fall upon the person; *Scob.* 31. *Hale parl.* 133. 2 *Hats*, 166, by speaking, reviling, nipping, or unmannerly words against a particular member. *Smyth Comw. L.* 2, c. 3. The consequences of a measure may be reprobated in strong terms; but to arraign the motives of those who propose to advocate it, is a personality, and against order. Qui digreditur a materia ad personam, Mr. Speaker ought to suppress. *Ord. Com.* 1604, Apr.-19.

[When a member shall be called to order by the president, or a senator, he shall sit down; and

every question of order shall be decided by the president, without debate, subject to an appeal to the senate; and the president may call for the sense of the senate on any question of order. *Rule. 6.]*

[No member shall speak to another or otherwise interrupt the business of the senate, or read any printed paper while the journals or public papers are reading, or when any member is speaking in any debate. *Rule 2.]*

No one is to disturb another in his speech, by hissing, coughing, spitting, 6 *Grey*, 332. *Scob.* 8. *D'Ewes*, 332. *col.* 1. 640. *col.* 2, speaking or whispering to another, *Scob.* 6. *D'Ewes* 487. *col.* 1, nor to stand up or interrupt him; *Town.* *col.* 205. *Men. in Hakew.* 31, nor to pass between the speaker and the speaking member, nor to go across the house, *Scob.* 6. or to walk up and down it, or to take books or papers from the table, or write there. 2 *Hats.* 171.

Nevertheless, if a member finds that it is not the inclination of the house to hear him, and that by conversation or any other noise they endeavor to drown his voice, it is his most prudent way to submit to the pleasure of the house, and sit down; for it scarcely ever happens that they are guilty of this piece of ill manners without sufficient reason, or inattentive to a member who says any thing worth their hearing. 2 *Hats.* 77, 78.

If repeated calls do not produce order, the speaker may call by his name any member obstinately persisting in irregularity, whereupon the house may require the member to withdraw. He is then to be heard in exculpation, and to with-

draw. Then the speaker states the offence committed; and the house considers the degree of punishment they will inflict. 2 *Hats*. 167, 7, 8, 172.

For instances of assaults and affrays in the House of Commons, and the proceedings thereon, see 1 *Pet. Misc.* 82. 3 *Grey*, 128. 4. *Grey*, 328. 5 *Grey*, 382. 6 *Grey*, 254. 10 *Grey*, 8. Whenever warm words, or an assault, have passed between members, the house, for the protection of their members, requires them to declare in their places not to prosecute any quarrel, 3 *Grey*, 128, 293. 5 *Grey*, 289; or orders them to attend the speaker, who is to accommodate their differences and report to the house; 3 *Grey*, 419, and they are put under restraint if they refuse, or until they do. 9 *Grey*, 234, 312.

Disorderly words are not to be noticed till the member has finished his speech. 5 *Grey*, 356. 6 *Grey*, 60. Then the person objecting to them, and desiring them to be taken down by the clerk at the table, must repeat them. The speaker then may direct the clerk to take them down in his minutes. But if he thinks them not disorderly, he delays the direction. If the call becomes pretty general, he orders the clerk to take them down, as stated by the objecting member. They are then part of his minutes, and when read to the offending member, he may deny they were his words, and the house must then decide by a question whether they are his words or not. Then the member may justify them, or explain the sense in which he used them, or apologise. If the house is satisfied, no farther proceeding is necessary. But if two mem-

bers still insist to take the sense of the house, the member must withdraw, before that question is stated, and then the sense of the house is to be taken. 2 *Hats*. 199. 4 *Grey*, 170. 6 *Grey*, 59. When any member has spoken, or other business intervened, after offensive words spoken, they cannot be taken notice of for censure. And this is for the common security of all, and to prevent mistakes which must happen if words are not taken down immediately. Formerly they might be taken down at any time the same day. 2 *Hats*. 196. *Men. in Hakew.* 71. 3 *Grey*, 48. 9 *Grey*, 514.

Disorderly words spoken in a committee must be written down as in the house; but the committee can only report them to the house for animadversion. 6 *Grey*, 46.

[The rule of the senate says,—If the member be called to order by a senator, for words spoken, the exceptionable words shall immediately be taken down in writing, that the president may be better enabled to judge of the matter. *Rule 7.*]

In parliament, to speak irreverently or seditiously against the king is against order. *Smith's Comw. L. 2. c. 3.* 2 *Hats*. 170.

It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there; because the opinion of each House should be left to its own independency not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses. 8 *Grey*, 22.

Neither House can exercise any authority over

a member or officer of the other, but should complain to the House of which he is, and leave the punishment to them. Where the complaint is of words disrespectfully spoken by a member of another house, it is difficult to obtain punishment, because of the rules supposed necessary to be observed (as to the immediate noting down of words) for the security of members. Therefore it is the duty of the House, and more particularly of the speaker, to interfere immediately, and not to permit expressions to go unnoticed, which may give a ground of complaint to the other house, and introduce proceedings and mutual accusations between the two houses, which can hardly be terminated without difficulty and disorder. 3 *Hats.* 51.

No member may be present when a bill or any business concerning himself is debating; nor is any member to speak to the merits of it till he withdraws. 2 *Hats.* 219. The rule is, that if a charge against a member arise out of a report of a committee, or examination of witnesses in the House, as the member knows from that to what points he is to direct his exculpation, he may be heard to those points, before any question is moved or stated against him. He is then to be heard, and withdraw before any question is moved. But if the question itself is the charge, as for breach of order, or matter arising in the debate; there the charge must be stated, that is, the question must be moved, himself heard, and then to withdraw. 2 *Hats.* 121, 122.

Where the private interests of a member are concerned in a bill or question, he is to withdraw.

And where such an interest has appeared, his voice has been disallowed, even after a division. In a case so contrary, not only to the laws of decency, but to the fundamental principle of the social compact, which denies to any man to be a judge in his own cause, it is for the honour of the house that this rule, of immemorial observance, should be strictly adhered to. 2 *Hats*. 119, 121. 6 *Grey*, 368.

No member is to come into the House with his head covered, nor to remove from one place to another with his hat on, nor is to put on his hat in coming in, or removing, until he be set down in his place. *Scob*. 6.

A question of order may be adjourned to give time to look into precedents. 2. *Hats*. 118.

In parliament, all decisions of the speaker may be controlled by the House. 3 *Grey*, 319.

#### SEC. XVIII.—ORDERS OF THE HOUSE.

Of right, the door of the House ought not to be shut, but to be kept by porters, or serjeants-at-arms, assigned for that purpose. *Mod. ten. Parl.* 23.

[By the rules of the Senate, on motion made and seconded to shut the doors of the Senate, on the discussion of any business which may, in the opinion of a member, require secrecy, the president shall direct the gallery to be cleared, and during the discussion of such motion, the doors shall remain shut. *Rule 18.*]

[No motion shall be deemed in order to admit any person or persons whatever within the doors of the senate chamber, to present any petition,

memorial, or address, or to hear any such read. *Rule 19.*]

The only case where a member has a right to insist on any thing, is where he calls for the execution of a subsisting order of the House. Here, there having been already a resolution, any person has a right to insist that the speaker, or any other whose duty it is, shall carry it into execution; and no debate or delay can be had on it. Thus any member has a right to have the House or gallery cleared of strangers, an order existing for that purpose; or to have the House told when there is not a quorum present. 2 *Hats.* 87, 129. How far an order of the House is binding, see *Hakew.* 392.

But where an order is made that any particular matter be taken up on a particular day, there a question is to be put when it is called for, whether the House will now proceed to that matter? Where orders of the day are on important or interesting matter, they ought not to be proceeded on till an hour at which the House is usually full, [*which in Senate is at noon.*]

Orders of the day may be discharged at any time, and a new one made for a different day. 3 *Grey*, 48, 313.

When a session is drawing to a close, and the important bills are all brought in, the House, in order to prevent interruption by further unimportant bills, sometimes come to a resolution that no new bill be brought in, except it be sent from the other House. 3 *Grey*, 156.

All orders of the House determine with the session; and one taken under such an order may, af-



ter the session is ended, be discharged on a *habeas corpus*. *Raym.* 120. *Jacob's L. D. by Ruffhead. Parliament*, 1 *Lev.* 165, *Pritchard's case*.

[Where the constitution authorises each House to determine the rules of its proceedings, it must mean in those cases legislative, executive, or judiciary, submitted to them by the constitution, or in something relating to these, and necessary towards their execution. But orders and resolutions are sometimes entered in the journals, having no relation to these, such as acceptances of invitations to attend orations, to take part in processions, &c. These must be understood to be merely conventional among those who are willing to participate in the ceremony, and are therefore perhaps improperly placed among the records of the House.]

#### SEC. XIX.—PETITIONS.

A petition prays something. A remonstrance has no prayer. 1 *Grey*, 58.

Petitions must be subscribed by the petitioners. *Scob.* 87. *L. Parl. c.* 22. 9 *Grey*, 362, unless they are attending, 1 *Grey*, 401, or unable to sign, and averred by a member. 3 *Grey*, 418. But a petition not subscribed, but which the member presenting it affirmed to be all in the hand-writing of the petitioner, and his name written in the beginning, was on the question (March 14, 1800,) received by the Senate. The averment of a member, or of somebody without doors, that they know the hand-writing of the petitioners, is necessary if it be questioned. 6 *Grey*, 36. It must be presented by a member—not by the petitioners, and must be opened by him, holding it in his hand, 10 *Grey*, 57.

[Before any petition or memorial addressed to the Senate shall be received and read at the table, whether the same shall be introduced by the president or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introduction. *Rule 24.*]

Regularly a motion for receiving it must be made and seconded, and a question put whether it shall be received? But a cry from the House of "received," or even its silence, dispenses with the formality of this question. It is then to be read and disposed of.

#### SEC. XX.—MOTIONS.

When a motion has been made, it is not to be put to the question, or debated, until it is seconded. *Scob. 21.*

[The Senate say, No motion shall be debated until the same shall be seconded. *Rule 9.*]

It is then, and not till then, in possession of the House, and cannot be withdrawn but by leave of the House. It is to be put into writing, if the House or speaker require it, and must be read to the House by the speaker as often as any member desires it for his information. *2 Hats. 82.*

[The rule of the Senate is, when a motion shall be made and seconded, it shall be reduced to writing, if desired by the president or any member, delivered in at the table, and read by the president before the same shall be debated. *Rule 10.*]

It might be asked whether a motion for adjournment, or for the orders of the day, can be made by one member while another is speaking? It cannot. When two members offer to speak, he who

rose first is to be heard, and it is a breach of order in another to interrupt him unless by calling him to order if he departs from it. And the question of order being decided, he is still to be heard through. A call for adjournment, or for the order of the day, or for the question, by gentlemen from their seats, is not a motion. No motion can be made without rising and addressing the chair. Such calls are themselves breaches of order, which, though the member who has risen may respect, as an expression of impatience of the house against further debate, yet, if he chooses, he has a right to go on.

#### SEC. XXI.—RESOLUTIONS.

When the House commands, it is by an "order." But fact, principles, and their own opinions and purposes, are expressed in the form of resolutions.

[A resolution for an allowance of money to the clerks, being moved, it was objected to as not in order, and so ruled by the chair. But on an appeal to the senate (i. e. a call for their sense by the president on account of doubt in his mind according to Rule 16,) the decision was overruled. *Jour. Sen. June 1, 1796.* I presume the doubt was whether an allowance of money could be made otherwise than by bill.]

#### SEC. XXII.—BILLS.

[Every bill shall receive three readings, previous to its being passed; and the president shall give notice at each whether it be 1st, 2d, or 3d; which readings shall be on three different days, unless the senate unanimously direct otherwise. *Rule 26.*]

## SEC. XXIII.—BILLS, LEAVE TO BRING IN.

[One day's notice, at least, shall be given of an intended motion for leave to bring in a bill. *Rule 25.*]

When a member desires to bring in a bill on any subject, he states to the house in general terms the causes for doing it, and concludes by moving for leave to bring in a bill entitled, &c. Leave being given, on the question, a committee is appointed to prepare and bring in the bill. The mover and seconder are always appointed of this committee, and one or more in addition. *Hakew. 132. Scob. 40.*

It is to be presented fairly written, without any erasure or interlineation or the speaker may refuse it. *Scob. 41. I Grey, 82, 84.*

## SEC. XXIV.—BILLS, FIRST READING.

When a bill is first presented, the clerk reads it at the table, and hands it to the speaker, who, rising, states to the House the title of the bill, that this is the first time of reading it, and the question will be whether it shall be read a second time? Then sitting down to give an opening for objections, if none be made, he rises again and puts the question whether it shall be read a second time? *Hakew. 137, 141.* A bill cannot be amended on the first reading; 6 *Grey, 286*; nor is it usual for it to be opposed then; but it may be done, and rejected. *D'Ewes, 335, col. 1. 3 Hats. 198.*

## SEC. XXV.—BILLS, SECOND READING.

The second reading must regularly be on another day. *Hakew. 143.* It is done by the clerk

at the table, who then hands it to the speaker. The speaker, rising, states to the House the title of the bill, that this is the second time of reading it, and that the question will be, whether it shall be committed, or engrossed and read a third time? But if the bill came from the other House, as it always comes engrossed, he states, that the question will be, whether it shall be read a third time? and before he has so reported the state of the bill, no one is to speak to it. *Hakew.* 143, 146.

[In the senate of the United States, the president reports the title of the bill, that this is the second time of reading it, that it is now to be considered as in a committee of the whole, and the question will be, whether it shall be read a third time, or that it may be referred to a special committee ?]

#### SEC. XXVI.—BILLS, COMMITMENT.

If on motion and question it be decided that the bill shall be committed, it may then be moved to be referred to a committee of the whole House, or to a special committee. If the latter, the speaker proceeds to name the committee. Any member also may name a single person, and the clerk is to write him down as of the committee. But the House have a controlling power over the names and number, if a question be moved against any one, and may in any case put in and put out whom they please.

Those who take exception to some particulars in the bill, are to be of the committee. But none who speak directly against the body of the bill. For he that would totally destroy, will not amend

it. *Hakew.* 146. *Town. col.* 208. *D'Ewes*, 634. *col.* 2. *Scob.* 47, or as it is said, 5 *Grey*, 145, the child is not to be put to a nurse that cares not for it. 6 *Grey*, 373. It is therefore a constant rule, "that no man is to be employed in any matter who has declared himself against it." And when any member who is against the bill hears himself named of its committee, he ought to ask to be excused. Thus, March 7, 1606, Mr. Hadley was, on the question being put, excused from being of a committee, declaring himself to be against the matter itself. *Scob.* 46.

[No bill shall be committed or amended until it shall have been twice read, after which it may be referred to a committee. *Rule 27.*]

[In the appointment of the standing committees, the senate will proceed, by ballot, severally to appoint the chairman of each committee, and then, by one ballot, the other members necessary to complete the same; and a majority of the whole number of votes given shall be necessary to the choice of a chairman of a standing committee. All other committees shall be appointed by ballot, and a plurality of votes shall make a choice. When any subject or matter shall have been referred to a committee, any other subject or matter of a similar nature may, on motion, be referred to such committee. *Rule 34.*]

The clerk may deliver the bill to any member of the committee. *Town. col.* 138. But it is usual to deliver it to him who is first named.

In some cases the House has ordered a committee to withdraw immediately into the committee chamber, and act on, and bring back the bill, sitting the House. *Scob.* 48. A committee meets whe

and where they please, if the House has not ordered time and place for them. 6. *Grey*, 370. But they can only act when together, and not by separate consultation and consent, nothing being the report of the committee but what has been agreed to in committee actually assembled.

A majority of the committee constitutes a quorum for business. *Elsynge's method of passing bills*, 11.

Any member of the House may be present at any select committee, but cannot vote, and must give place to all the committee, and sit below them. *Elsynge*, 12. *Scob.* 49.

The committee have full power over the bill, or other paper committed to them, except that they cannot change the title or subject. 8. *Grey*, 228.

The paper before a committee, whether select, or of the whole, may be a bill, resolutions, draught of an address, &c., and it may either originate with them, or be referred to them. In every case, the whole paper is read first by the clerk, and then by the chairman by paragraphs, *Scob.* 49, pausing at the end of each paragraph, and putting questions for amending if proposed. In the case of resolutions on distinct subjects, originating with themselves, a question is put on each separately, as amended or unamended, and no final question on the whole, 3 *Hats.* 276; but if they relate to the same subject, a question is put on the whole. If it be a bill, draught of an address, or other paper originating with them, they proceed by paragraphs, putting questions for amending, either by insertion or striking out, if proposed: but no question on agreeing to the paragraphs separately. This is

reserved to the close, when a question is put on the whole, for agreeing to it as amended, or unamended. But if it be a paper referred to them, they proceed to put questions of amendment, if proposed, but no final question on the whole: because all parts of the paper having been adopted by the House, stand of course, unless altered, or struck out by vote. Even if they are opposed to the whole paper, and think it cannot be made good by amendments, they cannot reject it, but must report it back to the House without amendments, and there make their opposition.

The natural order in considering and amending any paper is, to begin at the beginning, and proceed through it by paragraphs, and this order is so strictly adhered to in parliament, that when a latter part has been amended, you cannot recur back and make any alteration in a former part. 2 *Hats.* 90. In numerous assemblies, this restraint is doubtless important. [But in the Senate of the United States, though in the main we consider and amend the paragraphs in their natural order, yet recurrences are indulged: and they seem, on the whole, in that small body, to produce advantages overweighing their inconveniences.]

To this natural order of beginning at the beginning, there is a single exception found in parliamentary usage. When a bill is taken up in committee, or on its second reading, they postpone the preamble, till the other parts of the bill are gone through. The reason is, that on consideration of the body of the bill such alterations may therein be made as may also occasion the alteration of the preamble. *Scob.* 50. 7 *Grey*, 421.



On this head the following case occurred in the Senate, March 6, 1800: A resolution, which had no preamble, having been already amended by the House so that a few words only of the original remained in it, a motion was made to prefix a preamble, which having an aspect very different from the resolution, the mover intimated that he should afterwards propose a correspondent amendment in the body of the resolution. It was objected that a preamble could not be taken up till the body of the resolution is done with. But the preamble was received: because we are in fact through the body of the resolution, we have amended that as far as amendments have been offered, and indeed till little of the original is left. It is the proper time, therefore, to consider a preamble: and whether the one offered be consistent with the resolution, is for the House to determine. The mover indeed has intimated that he shall offer a subsequent proposition for the body of the resolution; but the House is not in possession of it; it remains in his breast, and may be withheld. The rules of the House can only operate on what is before them.- [The practice of the Senate, too, allows recurrences backwards and forwards for the purposes of amendment, not permitting amendments in a subsequent, to preclude those in a prior part, or e converso.]

When the committee is through the whole, a member moves that the committee may rise, and the chairman reports the paper to the House, with or without amendments, as the case may be. 2 *Hats.* 289, 292. *Scob.* 53. 2 *Hats.* 290. 8. *Scob.* 50.

When a vote is once passed in a committee, it cannot be altered but by the House, their votes being binding on themselves. 1607, *June 4*.

The committee may not erase, interline, or blot the bill itself; but must, in a paper by itself, set down the amendments, stating the words which are to be inserted or omitted, *Scob. 50*, and where, by references to the page, line and word of the bill. *Scob. 50*.

SEC. XXVII.—REPORT OF COMMITTEE.

The chairman of the committee, standing in his place, informs the House that the committee, to whom was referred such a bill, have, according to order, had the same under consideration, and have directed him to report the same without any amendment, or with sundry amendments, (as the case may be,) which he is ready to do when the House pleases to receive it. And he, or any other, may move that it be now received. But the cry of "now, now," from the House, generally dispenses with the formality of a motion and question. He then reads the amendments, with the coherence in the bill, and opens the alterations, and the reasons of the committee for such amendments, until he has gone through the whole. He then delivers it at the clerk's table, where the amendments reported are read by the clerk without the coherence, whereupon the papers lie upon the table till the House at its convenience shall take up the report. *Scob. 52. Hakew. 148*.

The report being made, the committee is dissolved, and can act no more without a new power. *Scob. 51*. But it may be revived by a vote, and

the same matter re-committed to them. 4 *Grey*, 361.

SEC. XXVIII.—BILL, RECOMMITMENT.

After a bill has been committed and reported, it ought not, in an ordinary course, to be re-committed. But in cases of importance, and, for special reasons, it is sometimes re-committed, and usually to the same committee. *Hakew.* 151. If a report be re-committed before agreed to in the House, what has passed in committee is of no validity ; the whole question is again before the committee, and a new resolution must be again moved, as if nothing had passed. 3 *Hats.* 131, *note*.

In Senate, January, 1800, the salvage bill was re-committed three times after the commitment.

A particular clause of a bill may be committed without the whole bill, 3 *Hats.* 131, or so much of a paper to one, and so much to another committee.

SEC. XXIX,—BILL, REPORT TAKEN UP.

When the report of a paper originating with a committee is taken up by the House, they proceed exactly as in committee. Here, as in committee, when the paragraphs have, on distinct questions, been agreed to seriatim, 5 *Grey*, 366. 6 *Grey*, 368. 8 *Grey*, 47, 104, 360. 1 *Torbuck's deb.* 125. 3 *Hats.* 348, no question needs be put on the whole report. 5 *Grey*, 381.

On taking up a bill reported with amendments, the amendments only are read by the clerk. The speaker then reads the first and puts it to the question, and so on till the whole are adopted or rejected, before any other amendment be admit-

ted, except it be an amendment to an amendment. *Elsynge's Mem.* 53. When through the amendments of the committee, the Speaker pauses, and gives time for amendments to be proposed in the House to the body of the bill: as he does also if it has been reported without amendments; putting no questions but on amendments proposed: and when through the whole, he puts the question whether the bill shall be read a third time?

SEC. XXX.—QUASI-COMMITTEE.

If on motion and question, the bill be not committed, or if no proposition for commitment be made then the proceedings in the Senate of the United States, and in parliament, are totally different. The former shall be first stated.

[The 28th rule of the Senate says, "All bills, on a second reading, shall first be considered by the Senate in the same manner as if the Senate were in committee of the whole, before they shall be taken up and proceeded on by the Senate, agreeably to the standing rules, unless otherwise ordered:" (that is to say, unless ordered to be referred to a special committee.) And when the Senate shall consider a treaty, bill, or resolution, as in committee of the whole, the Vice-President, or President pro tempore, may call a member to fill the chair, during the time the Senate shall remain in committee of the whole; and the chairman so called, shall, during such time, have the powers of a president, pro tempore.]

[The proceeding of the Senate, as in a committee of the whole, or in quasi-committee, is precisely as in a real committee of the whole, taking

no questions but on amendments. When through the whole, they consider the quasi-committee as risen, the House resumed, without any motion, question, or resolution to that effect, and the president reports that, "the House, acting as in a committee of the whole, have had under their consideration the bill entitled, &c., and have made sundry amendments which he will now report to the House." The bill is then before them, as it would have been if reported from a committee, and questions are regularly to be put again on every amendment; which being gone through, the president pauses to give time to the House to propose amendments to the body of the bill; and when through, puts the question whether it shall be read a third time.]

[After progress in amending a bill in quasi-committee, a motion may be made to refer it to a special committee. If the motion prevails, it is equivalent in effect to the several votes that the committee rise, the House resume itself, discharge the committee of the whole, and refer the bill to a special committee. In that case the amendments already made fall. But if the motion fails, the quasi-committee stands in statu quo.]

[How far does this 26th rule subject the House when in quasi-committee, to the laws which regulate the proceedings of committees of the whole?] The particulars in which these differ from proceedings in the House, are the following: 1. In a committee every member may speak as often as he pleases. 2. The votes of a committee may be rejected or altered when reported to the House. 3. A committee, even of the whole, cannot refer any

matter to another committee. 4. In a committee no previous question can be taken. The only means to avoid an improper discussion, is to move that the committee rise : and if it be apprehended that the same discussion will be attempted on returning into committee, the House can discharge them, and proceed itself on the business, keeping down the improper discussion by the previous question. 5. A committee cannot punish a breach of order in the House, or in the gallery. 9 *Grey*, 113. It can only rise and report it to the House, who may proceed to punish. [The 1st and 2d of these peculiarities attach to the quasi-committee of the Senate, as every day's practice proves, and seem to be the only ones to which the 28th rule meant to subject them. For it continues to be a House, and therefore, though it acts in some respects as a committee, in others it preserves its character as a House. Thus, 3. it is in the daily habit of referring its business to a special committee. 4. It admits of the previous question. If it did not, it would have no means of preventing an improper discussion ; not being able as a committee is, to avoid it by returning into the House ; for the moment it would resume the same subject there, the 28th rule declares it again a quasi-committee. 5. It would doubtless exercise its powers as a House on any breach of order. 6. It takes a question by yea and nay, as the House does. 7. It receives messages from the president and the other House. 8. In the midst of a debate it receives a motion to adjourn, and adjourns as a House, not as a committee.]

**SEC. XXXI.—BILL, SECOND READING IN THE HOUSE.**

In parliament, after the bill has been read a second time, if on the motion and question, it be not committed, or if no proposition for commitment be made, the speaker reads it by paragraphs, pausing between each, but putting no question but on amendments proposed; and when through the whole, he puts the question whether it shall be read a third time? if it came from the other House: or, if originating with themselves, whether it shall be engrossed and read a third time? The speaker reads sitting, but rises to put questions. The clerk stands while he reads.

\*[But the Senate of the United States is so much in the habit of making many and material amendments at the third reading, that it has become the practice not to engross a bill till it has passed.—An irregular and dangerous practice; because, in

\* The former practice of the Senate, referred to in this paragraph, has been changed by the following rule :

[The final question, upon the second reading of every bill, resolution, constitutional amendment, or motion, originating in the Senate, and requiring three readings previous to being passed, shall be, "Whether it shall be engrossed and read a third time?" and no amendment shall be received for discussion at the third reading of any bill, resolution, amendment, or motion, unless by unanimous consent of the members present; but it shall at all times be in order, before the final passage of any such bill, resolution, constitutional amendment, or motion, to move its commitment; and should such commitment take place, and any amendment be reported by the committee, the said bill, resolution, constitutional amendment, or motion, shall be again read a second time, and considered as in committee of the whole, and then the aforesaid question shall be again put. Rule 29.]

this way, the paper which passes the Senate is not that which goes to the other House ; and that which goes to the other House as the act of the Senate, has never been seen in Senate. In reducing numerous, difficult, and illegible amendments into the text, the secretary may, with the most innocent intentions, commit errors, which can never again be corrected.]

The bill being now as perfect as its friends can make it, this is the proper stage for those fundamentally opposed to make their first attack. All attempts at earlier periods are with disjointed efforts ; because, many who do not expect to be in favour of the bill ultimately, are willing to let it go on to its perfect state, to take time to examine it themselves, and to hear what can be said for it ; knowing that, after all, they will have sufficient opportunities of giving in their veto. Its two last stages, therefore, are reserved for this, that is to say, on the question whether it shall be engrossed and read a third time ? And lastly, whether it shall pass ? The first of these is usually the most interesting contest ; because, then the whole subject is new and engaging, and the minds of the members having not yet been declared by any trying vote, the issue is the more doubtful. In this stage, therefore, is the main trial of strength, between its friends and opponents : and it behoves every one to make up his mind decisively for this question, or he loses the main battle ; and accident and management may, and often do, prevent a successful rallying on the next and last question, whether it shall pass ?

*When the bill is engrossed, the title is to be*



endorsed on the back, and not within the bill. *Hakew.* 250.

SEC. XXXII.—READING PAPERS.

Where papers are laid before the House, or referred to a committee, every member has a right to have them once read at the table, before he can be compelled to vote on them. But it is a great, though common error, to suppose that he has a right, toties quoties, to have acts, journals, accounts or papers on the table, read independently of the will of the House. The delay and interruption which this might be made to produce, evince the impossibility of the existence of such a right. There is, indeed, so manifest a propriety of permitting every member to have as much information as possible on every question on which he is to vote, that when he desires the reading, if it be seen that it is really for information, and not for delay, the speaker directs it to be read, without putting a question, if no one objects. But if objected to, a question must be put. 2 *Hats.* 117, 118.

It is equally an error to suppose that any member has a right, without a question put, to lay a book or paper on the table, or have it read, on suggesting that it contains matter infringing on the privileges of the House. *Ib.*

For the same reason a member has not a right to read a paper in his place, if it be objected to, without leave of the House. But this rigour is never exercised but where there is an intentional or gross abuse of the time and patience of the House.

A member has not a right even to read his own speech, committed to writing, without leave. This also is to prevent an abuse of time ; and therefore is not refused, but where that is intended. 2 *Grey*, 227.

A report of a committee of the Senate on a bill from the House of Representatives being under consideration, on motion that the report of the committee on the House of representatives on the same bill be read in Senate, it passed in the negative ; *Feb.* 28, 1793.

Formerly when papers were referred to a committee, they used to be first read : but of late, only the titles : unless a member insists they shall be read, and then nobody can oppose it. 2 *Hats*. 117.

#### SEC. XXXIII.—PRIVILEGED QUESTIONS.

\*[While a question is before the Senate, no motion shall be received, unless for an amendment, for the previous question, or for postponing the main question, or to commit it, or to adjourn.—*Rule 8.*]

It is no possession of a bill unless it be delivered to the clerk to be read, or the speaker reads

\*This rule has been modified so as to specify the questions entitled to preference.

The rule is now as follows :

[When a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or to amend ; which several motions shall have precedence in the order they stand arranged, and the motion for adjournment shall always be in order, and decided without debate.]

the title. *Lex. Parl.* 274. *Elsynge, Mem.* 85. *Ord. House of Commons*, 64.

It is a general rule that the question first moved and seconded shall be first put. *Scob.* 28, 22. 2 *Hats.* 81. But this rule gives way to what may be called privileged questions; and the privileged questions are of different grades among themselves.

A motion to adjourn simply takes place of all others; for otherwise the House might be kept sitting against its will, and indefinitely. Yet this motion cannot be received after another question is actually put, and while the House is engaged in voting.

Orders of the day take place of all other questions, except adjournment. That is to say, the question which is the subject of an order is made a privileged one, *pro hac vice*. The order is a repeal of the general rule as to this special case. When any member moves therefore for the order of the day to be read, no further debate is permitted on the question which was before the House, for if the debate might proceed, it might continue through the day and defeat the order. This motion, to entitle it to precedence, must be for the orders generally, and not for any particular one; and if it be carried on the question, "Whether the House will now proceed to the orders of the day," they must be read and proceeded on in the course in which they stand; 2 *Hats.* 83; for priority of order gives priority of right, which cannot be taken away but by another special order.

After these there are other privileged questions which will require considerable explanation.

It is proper that every parliamentary assembly should have certain forms of question so adapted as to enable them fitly to dispose of every proposition which can be made to them. Such are. 1. The previous question. 2. To postpone indefinitely. 3. To adjourn a question to a definite day. 4. To lie on the table. 5. To commit. 6. To amend. The proper occasion for each of these questions should be understood.

1. When a proposition is moved, which it is useless or inexpedient now to express or discuss, the previous question has been introduced for suppressing for that time the motion and its discussion. 3 *Hats*. 188, 189.

2. But as the previous question gets rid of it only for that day, and the same proposition may recur the next day ; if they wish to suppress it for the whole of that session, they postpone it indefinitely. 3 *Hats*. 183. This quashes the proposition for that session, as an indefinite adjournment is a dissolution, or the continuance of a suit, sine die, is a discontinuance of it.

3. When a motion is made which it will be proper to act on, but information is wanted, or something more pressing claims the present time, the question or debate is adjourned to such day within the session as will answer the views of the House. 2 *Hats*. 81. And those who have spoken before may not speak again when the adjourned debate is resumed, 2 *Hats*. 73. Sometimes, however, this has been abusively used by adjourning it to a day beyond the session, to get rid of it altogether, as would be done by an indefinite postponement.

4. When the House has something else which

claims its present attention, but would be willing to reserve in their power to take up a proposition whenever it shall suit them, they order it to lie on their table. It may then be called for at any time.

5. If the proposition will want more amendment and digestion than the formalities of the House will conveniently admit, they refer it to a committee.

6. But if the proposition be well digested, and may need but few and simple amendments, and especially if these be of leading consequence, they then proceed to consider and amend it themselves.

The Senate, in their practice, vary from this regular gradation of forms. Their practice, comparatively with that of parliament, stands thus :

*For the Parliamentary*  
Postponement indefinite,

Adjournment,

Lying on the table

*The Senate uses*  
Postponement to a day beyond the session.

Postponement to a day within the session.

{ Postponement indefinite.  
{ Lying on the table.

In their 8th rule, therefore, which declares that while a question is before the Senate, no motion shall be received, unless it be for the *Pr. Qu.*, or to postpone, commit, or amend the main question, the term postponement must be understood according to their broad use of it, and not in the parliamentary sense. Their rule then establishes as privileged questions, the previous question, postponement, commitment, and amendment.

But it may be asked, have these questions any privilege among themselves ? Or are they so equal that the common principle of the "first moved,

first put," takes place among them? This will need explanation. Their competitions may be as follow :

- |                                   |   |  |
|-----------------------------------|---|--|
| 1. Previous Question and Postpone | } | In the 1st, 2d, and 3d, classes, and the first member of the 4th class, the rule "first moved first put," takes place. |
| Commit                            |   |  |
| Amend                             |   |  |
| 2. Postpone and Previous Question | } |  |
| Commit                            |   |  |
| Amend                             |   |  |
| 3. Commit and Previous Question   | } |  |
| Postpone                          |   |  |
| Amend                             |   |  |
| 4. Amend and Previous Question    | } |  |
| Postpone                          |   |  |
| Commit                            |   |  |

In the first class, where the *P. Q.* is first moved, the effect is peculiar. For it not only prevents the after motion to postpone or commit from being put to question before it, but also from being put after it. For, if the *P. Q.* be decided affirmatively, to wit, that the *M. Q.* shall *now* be put, it would of course be against the decision to postpone or commit. And if it be decided negatively, to wit, that the *M. Q.* shall not now be put, this puts the house out of possession of the *M. Q.* and consequently there is nothing before them to postpone or commit. So that neither voting for or against the *P. Q.* will enable the advocates for postponing or committing to get at their object.—Whether it may be amended shall be examined hereafter.

2d class. If postponement be decided affirmatively, the proposition is removed from before the House, and consequently there is no ground for the *Pr. Qu.* commitment, or amendment. But

if decided negatively, that it shall not be postponed, the *M. Q.* may then be suppressed by the *P. Q.*, or may be committed, or amended.

The 3d class is subject to the same observations as the 2d.

The 4th class. Amendment of the *M. Q.* first moved, and afterwards the *P. Q.*, the question of amendment shall be first put.

Amendment and postponement competing, postponement is first put, as the equivalent proposition to adjourn the *M. Q.* would be in parliament. The reason is that the question for amendment is not suppressed by postponing or adjourning the *M. Q.* but remains before the House whenever the *M. Q.* is resumed: and it might be that the occasion for other urgent business might go by, and be lost by length of debate on the amendment, if the House had it not in their power to postpone the whole subject.

Amendment and commitment. The question for committing, though last moved, shall be first put: because in truth it facilitates and befriends the motion to amend. *Scobell* is express. "On motion to amend a bill, any one may notwithstanding move to commit it, and the question for commitment shall be first put." *Scob.* 46.

We have hitherto considered the case of two or more of the privileged questions contending for privilege between themselves, when both were moved on the original or *M. Q.*, but now let us suppose one of them to be moved, not on the original primary question, but on the secondary one, *e. g.*

Suppose a motion to postpone, commit or amend

the *M. Q.*, and that it be moved to suppress that motion by putting a previous question on it. This is not allowed : because it would embarrass questions too much to allow them to be piled on one another several stories high ; and the same result may be had in a more simple way, by deciding against the postponement, commitment or amendment. 2 *Hats.* 81, 2, 3, 4.

Suppose a motion for the previous question, or commitment or amendment of the main question, and that it be then moved to postpone the motion for the previous question, or for commitment or amendment of the main question. 1. It would be absurd to postpone the previous question, commitment or amendment, alone, and thus separate the appendage from its principal. Yet it must be postponed separately from its original, if at all : because the 8th rule of Senate says that when a main question is before the House no motion shall be received but to commit, amend or pre-question the original question, which is the parliamentary doctrine also. Therefore the motion to postpone the secondary motion for the previous question, or for committing or amending, cannot be received. 2. This is a piling of questions one on another, which, to avoid embarrassment, is not allowed. 3. The same result may be had more simply by voting against the previous question, commitment or amendment.

Suppose a commitment moved of a motion for the previous question, or to postpone or amend. The 1st, 2d and 3d reasons before stated all hold good against this.

Suppose an amendment moved to a motion for



the previous question. **Answer.** The previous question cannot be amended. Parliamentary usage, as well as the 9th rule of the Senate, has fixed its form to be "shall the main question be now put?" *i. e.* at this instant. And as the present instant is but one, it can admit of no modification. To change it to to-morrow, or any other moment, is without example, and without utility. But suppose a motion to amend a motion for postponement, as to one day instead of another; or to a special, instead of an indefinite time. The useful character of amendment gives it a privilege of attaching itself to a secondary and privileged motion. That is, we may amend a postponement of a main question. So we may amend a commitment of a main question, as by adding, for example, "with instructions to inquire, &c." In like manner, if an amendment be moved to an amendment, it is admitted. But it would not be admitted in another degree; to wit, to amend an amendment to an amendment, of a *M. Q.* This would lead to too much embarrassment. The line must be drawn somewhere, and usage has drawn it after the amendment to the amendment. The same result must be sought by deciding against the amendment to the amendment, and then moving it again as it was wished to be amended. In this form it becomes only an amendment to an amendment.

[When motions are made for reference of the same subject to a select committee, and to a standing committee, the question on reference to the standing committee shall be first put. *Rule 35.*]

[In filling a blank with a sum, the largest sum *shall* be first put to the question by the 13th rule

of the Senate,\*] contrary to the rule of parliament, which privileges the smallest sum and longest time. 5 *Grey*, 179. 2 *Hats*. 8, 83. 3 *Hats*. 132, 133. And this is considered to be not in the form of an amendment to the question, but as alternative or successive originals. In all cases of time or number, we must consider whether the larger comprehends the lesser, as in a question to what day a postponement shall be, the number of a committee, amount of a fine, term of an imprisonment, term of irredeemability of a loan, or the terminus in quem, in any other case. Then the question must begin a maximo. Or whether the lesser includes the greater, as in questions on the limitation of the rate of interest, on what day the session shall be closed by adjournment, on what day the next shall commence, when an act shall commence, or the terminus a quo in any other case, where the question must begin a minimo. The object being not to begin at that extreme, which, and more, being within every man's wish, no one could negative it, and yet, if he should vote in the affirmative, every question for more would be precluded; but at that extreme which would unite few, and then to advance or recede till you get to a number which will unite a bare majority. 3 *Grey*, 376, 284, 385. "The fair question in this case is not that to which and more all will agree, but whether there shall be addition to the question." 1 *Grey*, 365.

Another exception to the rule of priority is when

\*In filling up blanks, the largest sum and longest time shall be first put. Rule 13.

a motion has been made to strike out, or agree to a paragraph. Motions to amend it are to be put to the question before a vote is taken on striking out, or agreeing to the whole paragraph.

But there are several questions, which, being incidental to every one, will take place of every one, privileged or not; to wit, a question of order arising out of any other question, must be decided before that question. *2 Hats. 88.*

A matter of privilege arising out of any question, or from a quarrel between two members, or any other cause, supersedes the consideration of the original question, and must be first disposed of. *2 Hats. 88.*

Reading papers relative to the question before the House. This question must be put before the principal one. *2 Hats. 83.*

Leave asked to withdraw a motion. The rule of parliament being that a motion made and seconded is in the possession of the House, and cannot be withdrawn without leave, the very terms of the rule imply that leave may be given, and consequently may be asked and put to the question.

#### SEC. XXXIV.—THE PREVIOUS QUESTION.

When any question is before the House, any member may move a previous question, "whether that question (called the main question) shall now be put?" If it pass in the affirmative, then the main question is to be put immediately, and no man may speak any thing further to it, either to add or alter. *Memor. in Hakew. 28. 4 Grey, 27.*

The previous question being moved and seconded, the question from the chair shall be, "Shall

the main question be now put?" and if the nays prevail, the main question shall not then be put.

This kind of question is understood by Mr. Hatsell to have been introduced in 1604. 2 *Hats.* 80. Sir Henry Vane introduced it. 2 *Grey*, 113, 114. 3 *Grey*, 384. When the question was put in this form, "Shall the main question be put?" A determination in the negative suppressed the main question during the session; but since the words "now put" are used, they exclude it for the present only. Formerly indeed only till the present debate was over, 4 *Grey*, 43, but now for that day and no longer. 2 *Grey*, 113, 114.

Before the question "Whether the main question shall now be put?" any person might formerly have spoken to the main question, because otherwise he would be precluded from speaking to it at all. *Mem. in Hakew.* 28.

The proper occasion for the previous question, is when a subject is brought forward of a delicate nature as to high personages, &c., or the discussion of which may call forth observations which might be of injurious consequences. Then the previous question is proposed: and, in the modern usage, the discussion of the main question is suspended, and the debate confined to the previous question. The use of it has been extended abusively to other cases: but in these it has been an embarrassing procedure: its uses would be as well answered by other more simple parliamentary forms, and therefore it should not be favoured, but restricted within as narrow limits as possible.

Whether a main question may be amended after the previous question on it has been moved and seconded? 2 *Hats.* 88, says, if the previous ques-

tion has been moved and seconded, and also proposed from the chair, (by which he means stated by the speaker for debate,) it has been doubted whether an amendment can be admitted to the main question. He thinks it may, after the previous question moved and seconded; but not after it has been proposed from the chair. In this case, he thinks the friends to the amendment must vote that the main question be not now put; and then move their amended question, which being made new by the amendment, is no longer the same which has been just suppressed, and therefore may be proposed as a new one. But this proceeding certainly endangers the main question, by dividing its friends, some of whom may choose it unamended, rather than lose it altogether: while others of them may vote, as Hatsell advises, that the main question be not now put, with a view to move it again in an amended form. The enemies of the main question, by this manœuvre to the previous question, get the enemies to the amendment added to them on the first vote, and throw the friends of the main question under the embarrassment of rallying again as they can. To support his opinion, too, he makes the deciding circumstance, whether an amendment may or may not be made, to be, that the previous question has been proposed from the chair. But, as the rule is that the House is in possession of a question as soon as it is moved and seconded, it cannot be more than possessed of it by its being also proposed from the chair. It may be said, indeed, that the object of the previous question being to get rid of a question, which *it is not expedient* should be discussed, this object

may be defeated by moving to amend, and, in the discussion of that motion, involving the subject of the main question. But so may the object of the previous question be defeated, by moving the amended question, as Mr. Hatsell proposes, after the decision against putting the original question. He acknowledges, too, that the practice has been to admit previous amendments, and only cites a few late instances to the contrary. On the whole, I should think it best to decide it *ab inconvenienti*, to wit: which is most inconvenient, to put it in the power of one side of the House to defeat a proposition by hastily moving the previous question, and thus forcing the main question to be put unamended; or to put it in the power of the other side to force on, incidentally at least, a discussion which would be better avoided? Perhaps the last is the least inconvenience; inasmuch as the speaker, by confining the discussion rigorously to the amendment only, may prevent their going into the main question, and inasmuch also as so great a proportion of the cases in which the previous question is called for, are fair and proper subjects of public discussion, and ought not to be obstructed by a formality introduced for questions of a peculiar character.

## SEC. XXXV.—AMENDMENTS.

On an amendment being moved, a member who has spoken to the main question may speak again to the amendment. *Scob. 23.*

If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House; but not within the competence of the speaker to suppress as if it were

against order. For were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress, instead of subserving, the legislative will.

Amendments may be made so as totally to alter the nature of the proposition, and it is a way of getting rid of a proposition by making it bear a sense different from what it was intended by the movers, so that they vote against it themselves. 2 *Hats.* 79, 4, 82, 84. A new bill may be ingrafted by way of amendment on the words "Be it enacted, &c." 1 *Grey*, 190, 192.

If it be proposed to amend by leaving out certain words, it may be moved as an amendment to this amendment to leave out a part of the words of the amendment, which is equivalent to leaving them in the bill. 2 *Hats.* 80, 9. The parliamentary question is, always, whether the words shall stand part of the bill?

When it is proposed to amend by inserting a paragraph, or part of one, the friends of the paragraph may make it as perfect as they can by amendments, before the question is put for inserting it. If it be received, it cannot be amended afterwards, in the same stage; because the House has, on a vote, agreed to it in that form. In like manner if it is proposed to amend by striking out a paragraph, the friends of the paragraph are first to make it as perfect as they can by amendments, before the question is put for striking it out. If on the question it be retained, it cannot be amended afterwards: because a vote against striking out is equivalent to a vote agreeing to it in that form.

When it is moved to amend, by striking out

certain words, and inserting others, the manner of stating the question is first to read the whole passage to be amended as it stands at present, then the words proposed to be struck out, next those to be inserted, and lastly the whole passage as it will be when amended. And the question, if desired, is then to be divided, and put first on striking out. If carried, it is next on inserting the words proposed. If that be lost, it may be moved to insert others. 2 *Hats*. 80, 7.

A motion is made to amend by striking out certain words and inserting others in their place, which is negatived. Then it is moved to strike out the same words, and to insert others of a tenor entirely different from those first proposed. It is negatived. Then it is moved to strike out the same words and insert nothing, which is agreed to. All this is admissible; because to strike out and insert A, is one proposition. To strike out and insert B, is a different proposition. And to strike out and insert nothing, is still different. And the rejection of one proposition does not preclude the offering a different one. Nor would it change the case were the first motion divided by putting the question first on striking out, and that negatived. For as putting the whole motion to the question at once would not have precluded, the putting the half of it cannot do it.\*

\*In the case of a division of the question and a decision against striking out, I advance doubtingly the opinion here expressed. I find no authority either way; and I know it may be viewed under a different aspect. It may be thought that, having decided separately not to strike out the passage, the same question for striking out cannot be put over again.



But if it had been carried affirmatively to strike out the words and to insert A, it could not afterwards be permitted to strike out A, and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B. In which case those who preferred it would join in rejecting A.

After A is inserted, however, it may be moved to strike out a portion of the original paragraph, comprehending A, provided the coherence to be struck out be so substantial as to make this effectively a different proposition. For then it is resolved into the common case of striking out a paragraph after amending it. Nor does any thing forbid a new insertion, instead of A and its coherence.

In Senate, January 25, 1798, a motion to postpone until the second Tuesday in February some amendments proposed to the constitution; the words, "until the second Tuesday in February," were struck out by way of amendment. Then it was moved to add, "until the first day of June." Objected that it was not in order, as the question should be first put on the longest time; therefore, after a shorter time decided against, a longer cannot be put to question. It was answered that this rule takes place only in filling blanks for time.—But when a specific time stands part of a motion, that may be struck out as well as any other part

though with a view to a different insertion. Still I think it more reasonable and convenient to consider the striking out, and insertion, as forming one proposition; but should readily yield to any evidence that the contrary is the practice in parliament.

of the motion ; and when struck out, a motion may be received to insert any other. In fact, it is not until they are struck out, and a blank for the time thereby produced, that the rule can begin to operate, by receiving all the propositions for different times, and putting the questions successively on the longest. Otherwise it would be in the power of the mover, be inserting originally a short time, to preclude the possibility of a longer. For till the short time is struck out, you cannot insert a longer ; and if, after it is struck out, you cannot do it, then it cannot be done at all. Suppose the first motion had been to amend by striking out "the second Tuesday in February," and inserting instead thereof "the first of June," it would have been regular, then, to divide the question, by proposing first the question to strike out, and then that to insert. Now this is precisely the effect of the present proceeding ; only instead of one motion and two questions, there are two motions and two questions, to effect it : the motion being divided as well as the question.

When the matter contained in two bills might be better put into one, the manner is to reject the one, and incorporate its matter into another bill by way of amendment. So if the matter of one bill would be better distributed into two, any part may be struck out by way of amendment, and put into a new bill. If a section is to be transposed, a question must be put on striking it out where it stands, and another for inserting it in the place desired.

A bill passed by the one House with blanks. These may be filled up by the other by way of

amendments, returned to the first, as such, and passed. 3 *Hats*. 83.

The number prefixed to the section of a bill, being merely a marginal indication, and no part of the text of the bill, the clerk regulates that—the House or committee is only to amend the text.

#### SEC. XXXVI.—DIVISION OF THE QUESTION.

If a question contains more parts than one, it may be divided into two or more questions. *Mem. in Hakeu*. 29. But not as the right of an individual member, but with the consent of the House. For who is to decide whether a question is complicated or not? where it is complicated? into how many propositions it may be divided? The fact is; that the only mode of separating a complicated question is by moving amendments to it; and these must be decided by the House, on a question; unless the House orders it to be divided; as on the question, Dec. 2, 1640, making void the election of the knights for Worcester, on a motion it was resolved to make two questions of it, to wit, one on each knight. 2 *Hats*. 85, 86. So wherever there are several names in a question, they may be divided and put one by one. 9 *Grey*, 444. So 1729, April 17, on an objection that a question was complicated, it was separated by amendment. 2 *Hats*. 79.

The soundness of these observations will be evident from the embarrassments produced by the 12th rule of the Senate, which says, “if the question in debate contain several points, any member may have the same divided.”

1798, May 30, the alien bill in quasi-committee.

To a section and proviso in the original, had been added two new provisos by way of amendment. On a motion to strike out the section as amended, the question was desired to be divided. To do this it must be put first on striking out either the former proviso, or some distinct member of the section. But when nothing remains but the last member of the section and the provisos, they cannot be divided so as to put the last member to question by itself; for the provisos might thus be left standing alone as exceptions to a rule when the rule is taken away; or the new provisos might be left to a second question, after having been decided on once before at the same reading; which is contrary to rule. But the question must be on striking out the last member of the section as amended. This sweeps away the exceptions with the rule, and relieves from inconsistency.— A question to be divisible, must comprehend points so distinct and entire, that one of them being taken away, the other may stand entire. But a proviso or exception, without an enacting clause, does not contain an entire point or proposition.

May 31. The same bill being before the Senate. There was a proviso that the bill should not extend, 1. To any foreign minister; nor 2. To any person to whom the president should give a passport; nor 3. To any alien merchant conforming himself to such regulations as the president shall prescribe; and a division of the question into its simplest elements was called for. It was divided into 4 parts, the 4th taking in the words “conforming himself” &c. It was objected that the words “any alien merchant” could not be separated from their modi-

fyng words “conforming,” &c., because these words, if left by themselves, contain no substantive idea, will make no sense. But admitting that the divisions of a paragraph into separate questions must be so made as that each part may stand by itself, yet the House having, on the question, retained the two first divisions, the words “any alien merchant” may be struck out, and their modifying words will then attach themselves to the preceding description of persons, and become a modification of that description.

When a question is divided, after the question on the 1st number, the 2d is open to debate and amendment: because it is a known rule that a person may rise and speak at any time before the question has been completely decided, by putting the negative as well as affirmative side. But the question is not completely put when the vote has been taken on the first member only. One half of the question, both affirmative and negative, remains still to be put. See *Execut. Journ. June. 25, 1795.* The same decision by President Adams.

#### SEC. XXXVII.—CO-EXISTING QUESTION.

It may be asked whether the House can be in possession of two motions or propositions at the same time? So that, one of them being decided, the other goes to question without being moved anew? The answer must be special. When a question is interrupted by a vote of adjournment, it is thereby removed from before the House, and does not stand *ipso facto* before them at their next meeting: but must come forward in the usual way. So, when it is interrupted by the order of the day Such other privileged questions also as dispose of

the main question (*e. g.* the previous question, postponement or commitment) remove it from before the House. But it is only suspended by a motion to amend, to withdraw, to read papers, or by a question of order or privilege, and stands again before the House when these are decided. None but the class of privileged questions can be brought forward while there is another question before the House, the rule being that when a motion has been made and seconded, no other can be received, except it be a privileged one.

#### SEC. XXXVIII.—EQUIVALENT QUESTIONS.

If, on a question for rejection, a bill be retained, it passes of course to its next reading. *Hakew.* 141. *Scob.* 42. And a question for a second reading, determined negatively, is a rejection without farther question, 4 *Grey*, 149. And see *Elsynge's Memor.* 42, in what cases questions are to be taken for rejection.

Where questions are perfectly equivalent, so that the negative of the one amounts to the affirmative of the other, and leaves no other alternative, the decision of the one concludes necessarily the other. 4 *Grey*, 157. Thus the negative of striking out amounts to the affirmative of agreeing; and therefore to put a question on agreeing after that on striking out, would be to put the same question in effect twice over. Not so in questions of amendments between the two Houses. A motion to recede being negatived, does not amount to a positive vote to insist, because there is another alternative, to wit, to adhere.

A bill originating in one House, is passed by the other with an amendment. A motion in the originating House to agree to the amendment is negatived. Does there result from this a vote of disagreement, or must the question on disagreement be expressly voted? The questions respecting amendments from another House are, 1st, to agree; 2d, disagree; 3d, recede; 4th, insist; 5th, adhere.

1. To agree.  
2. To disagree. } Either of these concludes the other necessarily, for the positive of either is exactly the equivalent of the negative of the other, and no other alternative remains. On either motion amendments to the amendment may be proposed; *e. g.* if it be moved to disagree, those who are for the amendment have a right to propose amendments, and to make it as perfect as they can, before the question of disagreeing is put.

3. To recede.  
4. To insist. } You may then either insist or adhere.  
5. To adhere. } \_\_\_\_\_ recede or adhere.  
\_\_\_\_\_ recede or insist.

Consequently the negative of these is not equivalent to a positive vote, the other way. It does not raise so necessary an implication as may authorise the secretary by inference to enter another vote; for two alternatives still remain, either of which may be adopted by the House.

#### SEC. XXXIX.—THE QUESTION.

The question is to be put first on the affirmative side, and then on the negative.

After the speaker has put the affirmative part of the question, any member who has not spoken be-

fore to the question, may rise and speak before the negative be put. Because it is no full question till the negative part be put. *Scob.* 23. 2 *Hats.* 73.

But in small matters, and which are of course, such as receiving petitions, reports, withdrawing motions, reading papers, &c. the speaker most commonly supposes the consent of the House where no objection is expressed, and does not give them the trouble of putting the question formally. *Scob.* 22. 2 *Hats.* 87. 2. 87. 5 *Grey*, 129. 9 *Grey*, 301.

SEC. XL.—BILLS, THIRD READING.

To prevent bills from being passed by surprise, the House by a standing order, directs that they shall not be put on their passage before a fixed hour, naming one at which the House is commonly full. *Hakew.* 153.

[The usage of the Senate is not to put bills on their passage till noon.]

A bill reported and passed to the third reading cannot on that day be read the third time and passed. Because this would be to pass on two readings in the same day.

At the third reading the clerk reads the bill and delivers it to the speaker, who states the title, that it is the third time of reading the bill, and the question will be whether it shall pass? Formerly the speaker, or those who prepared a bill, prepared also a breviat or summary statement of its contents, which the speaker read when he declared the state of the bill, at the several readings. Sometimes, however, he read the bill itself,



especially on its passage. *Hakew.* 136, 137, 153. *Coke.* 22, 115. Latterly, instead of this, he, at the third reading, states the whole contents of the bill verbatim, only instead of reading the formal parts, "Be it enacted," &c. he states that "the preamble recites so and so—the 1st section enacts that, &c.; the 2d section enacts," &c.

[But in the Senate of the United States, both of these formalities are dispensed with; the breviate presenting but an imperfect view of the bill, and being capable of being made to present a false one: and the full statement being a useless waste of time, immediately after a full reading by the clerk; and especially as every member has a printed copy in his hand.]

A bill on the third reading is not to be committed for the matter or body thereof; but to receive some particular clause or proviso, it hath been sometimes suffered, but as a thing very unusual, *Hakew.* 156; thus, 27 *El.* 1584, a bill was committed on the third reading, having been formerly committed on the 2d, but is declared not usual. *D'Ewes*, 337. *col.* 2, 414. *col.* 2.

When an essential provision has been omitted, rather than erase the bill, and render it suspicious, they add a clause on a separate paper, engrossed and called a rider, which is read and put to the question three times. *Elsynge's Memorials* 59. 6 *Grey*, 335. 1 *Blackst.* 183. For example of riders, see 3 *Hats.* 121, 122, 124, 126. Every one is at liberty to bring in a rider without asking leave. 10 *Grey*, 52.

It is laid down as a general rule, that amendments proposed at the second reading shall |

twice read, and those proposed at the third reading thrice read; as also all amendments from the other House. *Town. col.* 19, 23, 24, 25, 26, 27, 28.

It is with great and almost invincible reluctance, that amendments are admitted at this reading, which occasion erasures or interlineations. Sometimes a proviso has been cut off from a bill; sometimes erased. 9 *Grey*, 513.

This is the proper stage for filling up blanks; for if filled up before, and now altered by erasure, it would be peculiarly unsafe.

At this reading the bill is debated afresh, and for the most part is more spoken to, at this time, than on any of the former readings. *Hakew.* 153.

The debate on the question whether it should be read a third time? has discovered to its friends and opponents the arguments on which each side relies, and which of these appear to have influence with the House; they have had time to meet them with new arguments, and to put their old ones into new shapes. The former vote has tried the strength of the first opinion, and furnished grounds to estimate the issue; and the question now offered for its passage, is the last occasion which is ever to be offered for carrying or rejecting it.

When the debate is ended, the speaker, holding the bill in his hand, puts the question for its passage, by saying, "gentlemen, all you who are of opinion that this bill shall pass, say ay," and after the answer of the ayes, "all those of the contrary opinion say no."—*Hakew.* 154.

After the bill is passed, there can be no further alteration of it in any point. *Hakew.* 159.

## ● SEC. XLI.—DIVISION OF THE HOUSE.

The affirmative and negative of the question having been both put and answered, the speaker declares whether the yeas or nays have it by the sound, if he be himself satisfied, and it stands as the judgment of the House. But if he be not himself satisfied which voice is the greater, or if, before any other member comes into the House, or before any new motion made, (for it is too late after that,) any member shall rise and declare himself dissatisfied with the speaker's decision, then the speaker is to divide the House. *Scob.* 24. 2 *Hats.* 140.

When the House of Commons is divided, the one party goes forth, and the other remains in the House. This has made it important which go forth and which remain; because the latter gain all the indolent, the indifferent, and inattentive.—Their general rule, therefore, is, that those who give their vote for the preservation of the orders of the House, shall stay in; and those who are for introducing any new matter or alteration, or proceeding contrary to the established course, are to go out. But this rule is subject to many exceptions and modifications. 2 *Hats.* 134. 1 *Rush*, p. 3, fol 92. *Scob.* 43, 52. *Co.* 12, 116. *D'Ewes*, 505. col. 1. *Mem. in Hakew.* 25, 29, as will appear by the following statement of who go forth; Petition that it be received,\*

Read,	- - - -	} Ayes.
Lie on the table,	- - - -	
Rejected after refusal to lie on table,		} Noes.

\* Noes. 9 Grey 365.

Referred to a committee, or farther proceeding, . . . .	}	Ayes.
Bill, that it be brought in, . . . .		
Read first or second time, . . . .	}	Ayes.
Engrossed or read third time, . . . .		
Proceeding on every other stage, . . . .		
Committed, . . . .		
To committee of the whole, . . . .		Noes.
To a select committee, . . . .		Ayes.
Report of bill to lie on table, . . . .		Noes.
Be <i>now</i> read, . . . .	}	Ayes.
Be taken into consideration three months hence, . . . .		
Amendments be read a second time, . . . .		Noes.
Clause offered on report of bill be read second time, . . . .	}	Ayes.
For receiving a clause, . . . .		
With amendments be engrossed, . . . .		
That a bill be <i>now</i> read a third time, . . . .		Noes. 398
Receive a rider, . . . .	}	Ayes. 259
Pass, . . . .		
Be printed, . . . .		
Committees. That A take the chair, . . . .	}	Noes. 291
To agree to the whole or any part of report, . . . .		
That the House do <i>now</i> resolve into committee, . . . .		
Speaker. That he now leave the chair after order to go into committee, . . . .		
That he issue warrant for a new writ, . . . .	}	Ayes. 344
Member. That none be absent without leave, . . . .		
Witness. That he be further examined, . . . .		

Previous question,	- - -	Noes.
Blanks. That they be filled with the largest sum,	- - -	} Ayes.
Amendments. That words stand part of		
Lords. That their amendment be read a second time,	- - -	} Noes.
Messenger be received,	- - -	
Orders of day to be now read, if be- fore 2 o'clock,	- - -	} Ayes.
If after 2 o'clock,	- - -	
Adjournment. Till the next sitting day, if before 4 o'clock,	- - -	} Ayes.
If after 4 o'clock,	- - -	
Over a sitting day, (unless a pre- vious resolution.)	- - -	} Ayes.
Over the 30th of January,	- - -	
For sitting on Sunday, or any other day, not being a sitting day,		} Ayes.

The one party being gone forth, the speaker names two tellers from the affirmative, and two from the negative side, who first count those sitting in the House, and report the number to the speaker. Then they place themselves within the door, two on each side, and count those who went forth, as they come in, and report the number to the speaker. *Men. in Hakew. 26.*

A mistake in the report of the tellers may be rectified after the report made. 2 *Hats. 145, note.*

[But in both Houses of Congress all these intricacies are avoided. The ayes first rise and are counted, standing in their places, by the president or speaker. Then they sit, and the noes rise and are counted in like manner.]

[In Senate, if they be equally divided, the vice-president announces his opinion, which decides.]

[The Constitution, however, has directed that "the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal." And again, that in all cases of reconsidering a bill, disapproved by the president, and returned with his objections, "the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill, shall be entered on the journals of each House respectively."]

[By the 16th and 17th rules of the Senate, when the yeas and nays shall be called for by one-fifth of the members present, each member called upon shall, unless for special reasons he be excused by the Senate, declare, openly and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon the call of the House, the names of the members shall be taken alphabetically.]

[When the yeas and nays shall be taken upon any question, in pursuance of the above rule, no member shall be permitted, under any circumstances whatever, to vote after the decision is announced from the chair.]

[When it is proposed to take the vote by yeas and nays, the president or speaker states that "the question is whether, *e. g.* the bill shall pass? that it is proposed that the yeas and nays shall be entered on the journal. Those therefore, who desire it will rise." If he finds and declares that one-fifth have risen, he then states that "those who are of

opinion that the bill shall pass, are to answer in the affirmative; those of the contrary opinion in the negative." The clerk then calls over the names alphabetically, notes the yea and nay of each, and gives the list to the president or speaker, who declares the result. In Senate, if there be an equal division, the secretary calls on the vice-president, and notes his affirmative or negative, which becomes the decision of the House.]

In the House of Commons, every member must give his vote the one way or the other. *Scob.* 24. As it is not permitted to any one to withdraw who is in the House when the question is put, nor is any one to be told in the division who was not in when the question was put. *2 Hats.* 140.

This last position is always true when the vote is by yeas and nays; where the negative as well as affirmative of the question is stated by the president at the same time, and the vote of both sides begins and proceeds *pari passu*. It is true also when the question is put in the usual way, if the negative has also been put. But if it has not, the member entering, or any other member, may speak, and even propose amendments, by which the debate may be opened again, and the question be greatly deferred. And as some who have answered aye, may have been changed by the new arguments, the affirmative must be put over again. If, then, the member entering may, by speaking a few words, occasion a repetition of the question, it would be useless to deny it on his simple call for it.

While the House is telling, no member may speak, or move out of his place; for if any mis-

take be suspected, it must be told again. *Mem. in Hakew. 26. 2 Hats. 143.*

If any difficulty arises in point of order during the division, the speaker is to decide peremptorily, subject to the future censure of the House if irregular. He sometimes permits old experienced members to assist him with their advice, which they do, sitting in their seats, covered, to avoid the appearance of debate; but this can only be with the speaker's leave, else the division might last several Hours. *2 Hats. 143.*

The voice of the majority decides. For the *lex majoris partis* is the law of all councils, elections, &c., where not otherwise expressly provided.—*Hakew. 93.* But if the House be equally divided, “*semper presumatur pro negante* ;” that is, the former law is not to be changed but by a majority. *Towns. col. 134.*

[But in the Senate of the United States, the vice-president decides, when the House is divided. *Const. U. S. I. 3.*]

When, from counting the House, on a division, it appears that there is not a quorum, the matter continues exactly in the state in which it was before the division, and must be resumed at that point on any future day. *2 Hats. 126.*

1606, May 1, on a question whether a member having said yea, may afterwards sit and change his opinion? a precedent was remembered by the speaker, of Mr. Morris, attorney of the wards in 39 *Eliz.* who in like case changed his opinion. *Mew. in Hakew 27.*



## SEC. XLII.—TITLES.

After the bill has passed, and not before, the title may be amended, and is to be fixed by a question; and the bill is then sent to the other House.

## SEC. XLIII.—RECONSIDERATION.

[When a question has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof, but no motion for the reconsideration of any vote shall be in order after a bill, resolution, message, report, amendment, or motion upon which the vote was taken, shall have gone out of the possession of the Senate, announcing their decision; nor shall any motion for reconsideration be in order, unless made on the same day on which the vote was taken, or within the two next days of actual session of the Senate thereafter.\* *Rule 20.*]

1798, Jan. A bill on its second reading being amended, and on the question whether it shall be read a third time, negatived, was restored by a decision to reconsider that question. Here the votes of negative and reconsideration, like positive and negative quantities in equation, destroy one another, and are as if they were expunged from the journals. Consequently, the bill is open for amendment, just so far as it was the moment preceding the question for the third reading: that is to say, all parts of the bill are open for amendment, except those on which votes have been al-

\* This part of the Rule has been added since the Manual was compiled.

ready taken in its present stage. So, also, it may be recommitted.]

\*[The rule permitting a reconsideration of a question, affixing to it no limitation of time or circumstance, it may be asked whether there is no limitation? If, after the vote, the paper on which it is passed has been parted with, there can be no reconsideration : as if a vote has been for the passage of a bill, and the bill has been sent to the other House. But where the paper remains, as on a bill rejected; when, or under what circumstances does it cease to be susceptible of reconsideration? This remains to be settled; unless a sense that the right consideration is a right to waste the time of the House in repeated agitations of the same question, so that it shall never know when a question is done with, should induce them to reform this anomalous proceeding.]

In parliament, a question once carried, cannot be questioned again, at the same session; but must stand as the judgment of the House. *Towns. col.* 67. *Mem. in Hakew.* 33. And a bill once rejected, another of the same substance cannot be brought in again the same session. *Hakew.* 158. 6 *Grey*, 392. But this does not extend to prevent putting the same question in different stages of a bill; because every stage of a bill submits the whole and every part of it to the opinion of the House, as open for amendment, either by insertion or omission, though the same amendment has been accepted or rejected in a former stage. So in reports of committees, *e. g.* report of an address, the

\*The Rule now fixes a limitation.

same question is before the House, and open for free discussion. *Towns. col.* 26. 2 *Hats.* 98, 100, 101. So orders of the House, or instructions to committees, may be discharged. So a bill, begun in one House, and sent to the other, and there rejected, may be renewed again in that other, passed and sent back. *Ib.* 92. 3 *Hats.* 161. Or, if instead of being rejected, they read it once and lay it aside, or amend it, and put it off a month, they may order in another to the same effect, with the same or a different title. *Hakew.* 97, 98.

Divers expedients are used to correct the effects of this rule; as by passing an explanatory act, if any thing has been omitted or ill expressed, 3 *Hats.* 278, or an act to enforce, and make more effectual an act, &c., or to rectify mistakes in an act, &c., or a committee on one bill may be instructed to receive a clause to rectify the mistakes of another. Thus, June 24, 1685, a clause was inserted in a bill for rectifying a mistake committed by a clerk in engrossing a bill of supply. 2 *Hats.* 194, 6. Or the session may be closed for one, two, three, or more days, and a new one commenced. But then all matters depending must be finished, or they fall, and are to begin de novo. 2 *Hats.* 94, 98. Or a part of the subject may be taken up by another bill, or taken up in a different way. 6 *Grey*, 304, 316.

And in cases of the last magnitude, this rule has not been so strictly and verbally observed as to stop indispensable proceedings altogether. 2 *Hats.* 92, 98. Thus when the address on the preliminaries of peace in 1782 had been lost by a majority of one, on account of the importance of the ques-

tion, and smallness of the majority, the same question, in substance, though with some words not in the first, and which might change the opinion of some members, was brought on again and carried ; as the motives for it were thought to outweigh the objection of form. 2 *Hats.* 99, 100.

A second bill may be passed to continue an act of the same session ; or to enlarge the time limited for its execution. 2 *Hats.* 95, 98. This is not in contradiction to the first act.

SEC. XLIV.—BILLS SENT TO THE OTHER HOUSE.

[All bills passed in Senate, shall, before they are sent to the House of Representatives, be examined by a committee, consisting of three members, whose duty it shall be to examine all bills, amendments, resolutions, or motions, before they go out of the possession of the Senate, and to make report that they are correctly engrossed ; which report shall be entered on the journal. *Rule 33.*]

A bill from the other House is sometimes ordered to lie on the table. 2 *Hats.* 97.

When bills, passed in one House and sent to the other, are grounded on special facts requiring proof, it is usual, either by message, or at a conference, to ask the grounds and evidence ; and this evidence, whether arising out of papers, or from the examination of witnesses, is immediately communicated. 3 *Hats.* 48.

SEC. XLV.—AMENDMENTS BETWEEN THE HOUSES.

When either House, *e. g.* the House of Commons, send a bill to the other, the other may pass it with amendments. The regular progression in this case is, that the commons disagree to the

amendment ; the lords insist on it ; the commons insist on their disagreement ; the lords adhere to their amendment ; the commons adhere to their disagreement. The term of insisting may be repeated as often as they choose to keep the question open. But the first adherence by either renders it necessary for the other to recede or adhere also ; when the matter is usually suffered to fall. 10 *Grey*, 148. Latterly, however, there are instances of their having gone to a second adherence. There must be an absolute conclusion of the subject somewhere, or otherwise transactions between the Houses would become endless. 3 *Hats*. 268, 270. The term of insisting, we are told, by Sir John Trevor, was then (1679) newly introduced into parliamentary usage, by the lords. 7 *Grey*, 94. It was certainly a happy innovation, as it multiplies the opportunities of trying modifications which may bring the Houses to concurrence. Either House, however, is free to pass over the term of insisting, and to adhere in the first instance. 10 *Grey*, 146. But it is not respectful to the other. In the ordinary parliamentary course, there are two free conferences at least before an adherence. 10 *Gray*, 147.

Either House may recede from its amendment and agree to the bill ; or recede from their disagreement to the amendment, and agree to the same absolutely, or with an amendment. For here the disagreement and receding destroy one another, and the subject stands as before the disagreement. *Elsynge*, 23, 27. 9 *Grey*, 476.

But the House cannot recede from, or insist on its own amendment, with an amendment ; for the

same reason that it cannot send to the other House an amendment to its own act after it has passed the act. They may modify an amendment from the other House by ingrafting an amendment on it, because they have never assented to it; but they cannot amend their own amendment, because they have, on the question, passed it in that form. 9 *Grey*, 368. 10 *Grey*, 240. In Senate, March 29, 1798. Nor where one House has adhered to their amendment, and the other agrees with an amendment, can the first House depart from the form which they have fixed by an adherence.

In the case of a money bill, the lords proposed amendments, become, by delay, confessedly necessary. The commons however refused them, as infringing on their privilege as to money bills; but they offered themselves to add to the bill a proviso to the same effect, which had no coherence with the lord's amendments; and urged that it was an expedient warranted by precedent, and not unparliamentary in a case become impracticable, and irremediable in any other way. 3 *Hats*. 256, 266, 270, 271. But the lords refused, and the bill was lost. 1 *Chand*. 288. A like case, 1 *Chand*. 311. So the commons resolve that it is unparliamentary to strike out at a conference any thing in a bill which hath been agreed and passed by both Houses. 6 *Grey*, 274. 1 *Chand*. 312.

A motion to amend an amendment from the other House, takes precedence of a motion to agree or disagree.

A bill originating in one House is passed by the other with an amendment.

The originating House agrees to their amend-

ment with an amendment. The other may agree to their amendment with an amendment ; that being only the 2d and not the 3d degree. For, as to the amending House, the first amendment with which they passed the bill, is a part of its text ; it is the only text they have agreed to. The amendment to that text by the originating House, therefore, is only in the 1st degree, and the amendment to that again by the amending House is only in the 2d, to wit, an amendment to an amendment, and so admissible. Just so, when, on a bill from the originating House, the other, at its 2d reading, makes an amendment ; on the 3d reading this amendment is become the text of the bill, and if an amendment to it be moved, an amendment to that amendment may also be moved, as being only in the 2d degree.

#### SEC. XLVI.—CONFERENCES.

It is on the occasion of amendments between the Houses that conferences are usually asked : but they may be asked in all cases of difference of opinion between the two Houses on matters depending between them. The request of a conference, however, must always be by the House which is possessed of the papers. 3 *Hats.* 31. 1 *Grey*, 425.

Conferences may be either simple or free. At a conference simply, written reasons are prepared by the House asking it, and they are read and delivered without debate to the managers of the other House at the conference ; but are not then to be answered. 4 *Grey*, 144. The other House then, if satisfied, vote the reasons satisfactory,

or say nothing : if not satisfied, they resolve them not satisfactory, and ask a conference on the subject of the last conference, where they read and deliver in like manner written answers to those reasons. 3 *Grey*, 183. They are meant chiefly to record the justification of each House to the nation at large, and to posterity, and in proof that the miscarriage of a necessary measure is not imputable to them. 3 *Grey*, 255. At free conferences, the managers discuss, viva voce and freely, and interchange propositions for such modifications as may be made in a parliamentary way, and may bring the sense of the two Houses together. And each party reports in writing to their respective Houses, the substance of what is said on both sides, and it is entered in their journals. 9 *Grey*, 220. 3 *Hats*. 280. This report cannot be amended or altered, as that of a committee may be. *Journ. Senate*, May 24, 1796.

A conference may be asked, before the House asking it has come to a resolution of disagreement, insisting or adhering. 3 *Hats* 269, 341. In which case the papers are not left with the other conferees, but are brought back to be the foundation of the vote to be given. And this is the most reasonable and respectful proceeding. For, as was urged by the lords on a particular occasion, "it is held vain, and below the wisdom of parliament, to reason or argue against fixed resolutions, and upon terms of impossibility to persuade." 3 *Hats*. 226. So the commons say, "an adherence is never delivered at a free conference, which implies debate." 10 *Grey*, 137. And on another occasion *the lords made it an objection that the commons*



had asked a free conference after they had made resolutions of adhering. It was then affirmed, however, on the part of the commons, that nothing was more parliamentary than to proceed with free conferences after adhering, 3 *Hats.* 269, and we do in fact see instances of conference, or of free conference, asked after the resolution of disagreeing, 3 *Hats.* 251, 253, 260, 286, 291, 316, 349, of insisting, *ib.* 280, 296, 299, 319, 322, 355; of adhering, 269, 270, 283, 300, and even of a second or final adherence. 3 *Hats.* 270. And in all cases of conference asked after a vote of disagreement, &c., the conferees of the House asking it, are to leave the papers with the conferees of the other: and in one case where they refused to receive them, they were left on the table in the conference chamber, *ib.* 271, 317, 323, 354. 10 *Grey*, 146.

After a free conference, the usage is to proceed with free conferences, and not to return again to a conference. 3 *Hats.* 270. 9 *Grey*, 229.

After a conference denied a free conference may be asked. 1 *Grey*, 45.

When a conference is asked, the subject of it must be expressed, or the conference not agreed to; *Ord. H. Com.* 89. 1 *Grey*, 425. 7 *Grey*, 31. They are sometimes asked to inquire concerning an offence or default of a member of the other House. 6 *Grey*, 181. 1 *Chand.* 304. Or the failure of the other House to present to the king a bill passed by both Houses, 8 *Grey*, 302. Or on information received, and relating to the safety of the nation, 10 *Grey*, 171. Or when the methods of parliament are thought by the one House to

have been departed from by the other, a conference is asked to come to a right understanding thereon. 10 *Grey*, 148. So when an unparliamentary message has been sent, instead of answering it, they ask a conference. 3 *Grey*, 155. Formerly an address or articles of impeachment, or a bill with amendments, or a vote of the House, or concurrence in a vote, or a message from the king, were sometimes communicated by way of conference. 6 *Grey*, 128, 300, 387. 7 *Grey*, 80. 8 *Grey*, 210, 255. 1 *Torbuck's Deb.* 278. 10 *Grey*, 293. 1 *Chandler*, 49, 287. But this is not the modern practice. 8 *Grey*, 255.

A conference has been asked after the first reading of a bill. 1 *Grey*, 194. This is a singular instance.

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Messages between the Houses are to be sent only while both Houses are sitting. 3 *Hats.* 15. They are received during a debate without adjourning the debate. 3 *Hats.* 22.

[In Senate the messengers are introduced in any state of business, except, 1. While a question is putting. 2. While the yeas and nays are calling. 3. While the ballots are counting. *Rule* 46. The first case is short; the second and third are cases where any interruption might occasion errors difficult to be corrected. So arranged June 15, 1798.]

In the House of representatives, as in parliament, if the House be in committee when a messenger attends, the speaker takes the chair to receive the message, and then quits it to return into

committee without any question or interruption. 4 *Grey*, 226.

Messengers are not saluted by the members, but by the speaker for the House. 2 *Grey*, 253, 274.

If messengers commit an error in delivering their message, they may be admitted, or called in to correct their message. 4 *Grey*, 41. Accordingly, March 13, 1800, the Senate having made two amendments to a bill from the House of representatives, their secretary, by mistake, delivered one only; which being inadmissible by itself, that House disagreed, and notified the Senate of their disagreement. This produced a discovery of the mistake. The secretary was sent to the other House to correct his mistake, the correction was received, and the two amendments acted on de novo.

As soon as the messenger, who has brought bills from the other House, has retired, the speaker holds the bills in his hand, and acquaints the House "that the other House have by their messenger sent certain bills," and then reads their titles, and delivers them to the clerk, to be safely kept, till they shall be called for to be read. *Hakew.* 178.

It is not the usage for one House to inform the other by what numbers a bill has past. 10 *Grey*, 150. Yet they have sometimes recommended a bill, as of great importance, to the consideration of the House to which it is sent. 3 *Hats.* 25. Nor when they have rejected a bill from the other House, do they give notice of it; but it passes sub silentio, to prevent unbecoming altercations. 1 *Blackst.* 183.

[But in Congress the rejection is notified by message to the House in which the bill originated.]

A question is never asked by the one House of the other by way of message, but only at a conference; for this is an interrogatory, not a message. 3 *Grey*, 151, 181.

When a bill is sent by one House to the other, and is neglected, they may send a message to remind them of it. 3 *Hats*. 25. 5 *Grey*, 154. But if it be mere inattention, it is better to have it done informally, by communications between the speakers, or members of the two Houses.

When the subject of a message is of a nature that it can properly be communicated to both Houses of Parliament, it is expected that this communication should be made to both on the same day. But where a message was accompanied with an original declaration, signed by the party to which the message referred, its being sent to one House was not noticed by the other, because the declaration, being original, could not possibly be sent to both Houses at the same time. 2 *Hats*. 260, 261, 262.

The king, having sent original letters to the Commons, afterwards desires they may be returned, that he may communicate them to the lords. 1 *Chandler*, 303.

SEC. XLVIII.—ASSENT.

The House which has received a bill and passed it may present it for the king's assent, and ought to do it, though they have not by message notified to the other their passage of it. Yet the notifying by message is a form which ought to be ob-

served between the two Houses from motives of respect and good understanding. 2 *Hats.* 242. Were the bill to be withheld from being presented to the king, it would be an infringement of the rules of Parliament. *Ib.*

[When a bill has passed both Houses of Congress, the House last acting on it, notifies its passage to the other, and delivers the bill to the joint committee of enrolment, who see that it is truly enrolled in parchment.] When the bill is enrolled, it is not to be written in paragraphs, but solidly, and all of a piece, that the blanks between the paragraphs may not give room for forgery. 9 *Grey*, 143. [It is then put into the hands of the clerk of the House of Representatives to have it signed by the Speaker. The clerk then brings it by way of message to the Senate to be signed by their president. The Secretary of the Senate returns it to the committee of enrolment, who present it to the President of the United States. If he approve, he signs, and deposits it among the rolls in the office of the Secretary of State, and notifies by message the House in which it originated that he has approved and signed it; of which that House informs the other by message. If the president disapproves, he is to return it, with his objections, to that House in which it shall have originated; who are to enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the President's objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall be-

come a law. If any bill shall not be returned by the President within ten days (Sundays excepted,) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return; in which case it shall not be a law. *Const. U. S. I. 7.*]

[Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on a case of adjournment,) shall be presented to the President of the United States, and before the same shall take effect, it shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill. *Const. U. S. I. 7.*]

#### SEC. XLIX.—JOURNALS.

[Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy. *Const. U. S. I. 5.*]

[The proceedings of the Senate, when not acting as in a committee of the whole, shall be entered on the journals, as concisely as possible, care being taken to detail a true account of the proceedings. Every vote of the Senate shall be entered on the journals, and a brief statement of the contents of each petition, memorial, or paper presented to the Senate, be also inserted on the journal. *Rule 32.*]

[The titles of bills, and such parts thereof only,

as shall be effected by proposed amendments, shall be inserted on the journals. *Rule 31.*]

If a question is interrupted by a vote to adjourn, or to proceed to the orders of the day, the original question is never printed in the journal, it never having been a vote, nor introductory to any vote: but when suppressed by the previous question, the first question must be stated, in order to introduce and make intelligible the second. 2 *Hats. 83.*

So also when a question is postponed, adjourned, or laid on the table, the original question, though not yet a vote, must be expressed in the journals; because it makes part of the vote of postponement, adjourning, or laying it on the table.

Where amendments are made to a question, those amendments are not printed in the journals, separated from the question; but only the question as finally agreed to by the House. The rule of entering in the journals only what the House has agreed to, is founded in great prudence and good sense; as there may be many questions proposed which it may be improper to publish to the world, in the form in which they are made. 2 *Hats. 25.*

[In both Houses of Congress, all questions whereon the yeas and nays are desired by one-fifth of the members present, whether decided affirmatively or negatively, must be entered in the journals. *Const. I. 5.*]

The first order for printing the votes of the House of Commons, was October 30, 1685. 1 *Chandler, 387.*

Some judges have been of opinion that the jour-

nals of the House of Commons are no records, but only remembrances. But this is not law. *Hob.* 110, 111, *Lex. Parl.* 114, 115, *Jour. H. C. Mar.* 17, 1592. *Hale. Parl.* 105. For the lords in their House have power of judicature, the commons in their House have power of judicature, and both Houses together have power of judicature; and the book of the clerk of the House of Commons is a record, as is affirmed by the act of Parl. 6 *H.* 8, c. 16. 4 *Inst.* 23, 24, and every member of the House of Commons hath a judicial place. 4 *Inst.* 15. As records they are open to every person, and a printed vote of either House is sufficient ground for the other to notice it. Either may appoint a committee to inspect the journals of the other, and report what has been done by the other in any particular case. 2 *Hats.* 261. 3 *Hats.* 27—30. Every member has a right to see the journals, and to take and publish votes from them.—Being a record, every one may see and publish them. 6 *Grey*, 118, 119.

On information of a mis-entry or an omission of an entry in the journal, a committee may be appointed to examine and rectify it, and report it to the House. 2 *Hats.* 194, 5.

#### SEC. L.—ADJOURNMENT.

The two Houses of Parliament have the sole, separate, and independent power of adjourning each their respective Houses. The king has no authority to adjourn them; he can only signify his desire, and it is in the wisdom and prudence of either House to comply with his requisition, or not as they see fitting. 2 *Hats.* 232. 1 *Blackstone*, 186. 5 *Grey*, 122.



[By the Constitution of the United States a smaller number than a majority may adjourn from day to day. I. 5. But “neither House, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.” I. 5. And in case of disagreement between them, with respect to the time of adjournment, the president may adjourn them to such time as he shall think proper. *Const.* II. 3.]

A motion to adjourn, simply, cannot be amended as by adding “to a particular day.” But must be put simply “that this House do now adjourn?” and if carried in the affirmative, it is adjourned to the next sitting day, unless it has come to a previous resolution, “that at its rising it will adjourn to a particular day,” and then the House is adjourned to that day, 2 *Hats.* 82.

Where it is convenient that the business of the House be suspended for a short time, as for a conference presently to be held, &c., it adjourns during pleasure, 2 *Hats.* 305. Or for a quarter of an hour. 5 *Grey*, 331.

If a question be put for adjournment, it is no adjournment till the speaker pronounces it. 5 *Grey*, 137. And from courtesy and respect, no member leaves his place till the speaker has passed on.

#### SEC. LI.—A SESSION.

Parliament have three modes of separation, to wit: by adjournment, by prorogation, or dissolution by the king, or by the efflux of the term for which they were elected. Prorogation or disso-

lution constitutes there what is called a session; provided some act has passed. In this case all matters depending before them are discontinued, and at their next meeting, are to be taken up, de novo, if taken up at all. 1 *Blackst.* 186. Adjournment, which is by themselves, is no more than a continuance of the session from one day to another, or for a fortnight, a month, &c. ad libitum. All matters depending remain in statu quo, and when they meet again, be the term ever so distant, are resumed without any fresh commencement, at the point at which they were left. 1 *Lev.* 165. *Lex. Parl. c.* 2. 1 *Ro. Rep.* 29. 4 *Inst.* 7, 27, 28. *Hutt.* 61. 1 *Mod.* 252 *Ruff A. Jac. L. Dict. Parliament.* 1 *Blackst.* 186. Their whole session is considered in law but as one day, and has relation to the first day thereof. *Bro. Abr. Parliament,* 86.

Committees may be appointed to sit during a recess by adjournment, but not by prorogation. 5 *Grey*, 374. 9 *Grey*, 350. 1 *Chandler*, 50. Neither house can continue any portion of itself in any parliamentary function, beyond the end of the session, without the consent of the other two branches. When done, it is by a bill constituting them commissioners for the particular purpose.

[Congress separate in two ways only, to wit, by adjournment, or dissolution by the efflux of their time. What then constitutes a session with them? A dissolution closes one session, and the meeting of the new congress begins another. The constitution authorizes the president, "on extraordinary occasions, to convene both houses, or either of them." I. 3. If convened by the presi-

had asked a free conference after they had made resolutions of adhering. It was then affirmed, however, on the part of the commons, that nothing was more parliamentary than to proceed with free conferences after adhering, 3 *Hats*. 269, and we do in fact see instances of conference, or of free conference, asked after the resolution of disagreeing, 3 *Hats*. 251, 253, 260, 286, 291, 316, 349, of insisting, *ib.* 280, 296, 299, 319, 322, 355; of adhering, 269, 270, 283, 300, and even of a second or final adherence. 3 *Hats*. 270. And in all cases of conference asked after a vote of disagreement, &c., the conferees of the House asking it, are to leave the papers with the conferees of the other: and in one case where they refused to receive them, they were left on the table in the conference chamber, *ib.* 271, 317, 323, 354. 10 *Grey*, 146.

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The two Houses of Parliament have the sole, separate, and independent power of adjourning each their respective Houses. The king has no authority to adjourn them; he can only signify his desire, and it is in the wisdom and prudence of either House to comply with his requisition, or not as they see fitting. 2 *Hats.* 232. 1 *Blackstone*, 186. 5 *Grey*, 122.

[By the Constitution of the United States a smaller number than a majority may adjourn from day to day. I. 5. But "~~neither~~ House, during the session of ~~congress~~, ~~shall~~, without the consent of the other, adjourn for more than three days, nor to any other place ~~than that~~ in which the two Houses shall be sitting." I. 5. And in case of disagreement between them, with respect to the time of adjournment, the president may adjourn them to such time as he shall think proper. *Const.* II. 3.]

A motion to adjourn, simply, cannot be amended as by adding "to a particular day." But must be put simply "that this House do now adjourn?" and if carried in the affirmative, it is adjourned to the next sitting day, unless it has come to a previous resolution, "that at its rising it will adjourn to a particular day," and then the House is adjourned to that day, 2 *Hats.* 82.

Where it is convenient that the business of the House be suspended for a short time, as for a conference presently to be held, &c., it adjourns during pleasure, 2 *Hats.* 305. Or for a quarter of an hour. 5 *Grey*, 331.

If a question be put for adjournment, it is no adjournment till the speaker pronounces it. 5 *Grey*, 137. And from courtesy and respect, no member leaves his place till the speaker has passed on.

#### SEC. LI.—A SESSION.

Parliament have three modes of separation, to wit: by adjournment, by prorogation, or dissolution by the king, or by the efflux of the term for which they were elected. Prorogation or disso-

lution constitutes there what is called a session ; provided some act has passed. In this case all matters depending before ~~them~~ are discontinued, and at their next meeting, ~~are to be~~ taken up, de novo, if taken up at all. 1 *Blackst.* 186. Adjournment, which is by ~~themselves~~, is no more than a continuance of the session from one day to another, or for a fortnight, a month, &c. ad libitum. All matters depending remain in statu quo, and when they meet again, be the term ever so distant, are resumed without any fresh commencement, at the point at which they were left. 1 *Lev.* 165. *Lex. Parl. c. 2.* 1 *Ro. Rep.* 29. 4 *Inst.* 7, 27, 28. *Hutt.* 61. 1 *Mod.* 252 *Ruff h. Jac. L. Dict. Parliament.* 1 *Blackst.* 186. Their whole session is considered in law but as one day, and has relation to the first day thereof. *Bro. Abr. Parliament*, 86.

Committees may be appointed to sit during a recess by adjournment, but not by prorogation. 5 *Grey*, 374. 9 *Grey*, 350. 1 *Chandler*, 50. Neither house can continue any portion of itself in any parliamentary function, beyond the end of the session, without the consent of the other two branches. When done, it is by a bill constituting them commissioners for the particular purpose.

[Congress separate in two ways only, to wit, by adjournment, or dissolution by the efflux of their time. What then constitutes a session with them? A dissolution closes one session, and the meeting of the new congress begins another. The constitution authorises the president, "on extraordinary occasions, to convene both houses, or either of them." I. 3. If convened by the presi-

dent's proclamation, this must begin a new session, and of course determine the preceding one to have been a session. So if it meets under the clause of the constitution, which says," the congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day." I. 4 This must begin a new session. For even if the last adjournment was to this day, the act of adjournment is merged in the higher authority of the constitution, and the meeting will be under that, and not under their adjournment. So far we have fixed landmarks for determining sessions. In other cases it is declared by the joint vote authorising the president of the senate and the speaker to close the session on a fixed day, which is usually in the following form: "Resolved, by the senate and house of representatives, that the president of the senate and the speaker of the house of representatives be authorised to close the present session by adjourning their respective houses on the — day of —."

When it was said above that all matters depending before parliament were discontinued by the determination of the session, it was not meant for judiciary cases, depending before the house of lords, such as impeachments, appeals and writs of error. These stand continued, of course, to the next session. *Raym.* 120, 381. *Ruff. h. Jac.L.* *D. Parliament.*

[Impeachments stand in like manner, continued before the Senate of the United States.]

## SEC. LII.—TREATIES.

[The president of the United States has power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur. *Const U. S.* II. 2.]

[Resolved, that all confidential communications made by the president of the United States to the Senate, shall be, by the members thereof, kept secret; and that all treaties, which may hereafter be laid before the Senate, shall also be kept secret; until the Senate shall, by their resolution, take off the injunction of secrecy. *Rule 38.*]

Treaties are legislative acts. A treaty is the law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation. In all countries, I believe, except England, treaties are made by the legislative power: and there also, if they touch the laws of the land, they must be approved by parliament. *Ware v. Hylton*. 3 *Dallas Rep.* 223. It is acknowledged, for instance, that the king of Great Britain cannot, by a treaty, make a citizen of an alien. *Vattel*. b. 1, c. 19 sec. 214. An act of parliament was necessary to validate the American treaty of 1783. And abundant examples of such acts can be cited. In the case of the treaty of Utrecht, in 1712, the commercial articles required the concurrence of parliament. But a bill brought in for that purpose was rejected. France, the other contracting party, suffered these articles, in practice, to be not insisted on, and adhered to the rest of the treaty.

4 *Russel's Hist. Mod. Europe*, 457. 2 *Smollet*, 242, 246.

[By the constitution of the United States, this department of legislation is confided to two branches only of the ordinary legislature ; the president originating, and the Senate having a negative. To what subjects this power extends, has not been defined in detail by the constitution ; nor are we entirely agreed among ourselves. 1. It is admitted that it must concern the foreign nation, party to the contract, or it would be a mere nullity, *res inter alios acta*. 2. By the general power to make treaties, the constitution must have intended to comprehend only those subjects which are usually regulated by treaty, and cannot be otherwise regulated. 3. It must have meant to except out of these the rights reserved to the States ; for surely the president and Senate cannot do by treaty what the whole government is interdicted from doing in any way. 4. And also to except those subjects of legislation in which it gave a participation to the House of representatives. This last exception is denied by some, on the ground that it would leave very little matter for the treaty power to work on. The less the better say others. The constitution thought it wise to restrain the executive and Senate from entangling and embroiling our affairs with those of Europe. Besides, as the negotiations are carried on by the executive alone, the subjecting to the ratification of the representatives, such articles as are within their participation, is no more inconvenient than to the Senate. But the ground of this exception is denied as unfounded. For examine, e. g. the treaty of com-

merce with France, and it will be found that, out of 31 articles, there are not more than small portions of two or three of them which would not still remain as subjects of treaties, untouched by these exceptions.]

[Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded. This was accordingly the process adopted in the case of France in 1798.]

[It has been the usage for the executive, when it communicates a treaty to the Senate for their ratification, to communicate also the correspondence of the negotiators. This having been omitted in case of the Prussian treaty, was asked by a vote of the House, of Feb. 12, 1800, and was obtained. And in December, 1800, the convention of that year between the United States and France, with the report of the negotiations by the envoys, but not their instructions, being laid before the Senate, the instructions were asked for and communicated by the President.]

[The mode of voting on questions of ratification is by nominal call.]

[Whenever a treaty shall be laid before the Senate for ratification, it shall be read a first time for information only; when no motion to reject, ratify, or modify the whole, or any part, shall be received. Its second reading shall be for consideration, and on a subsequent day, when it shall be taken up as in a committee of the whole, and every one shall be free to move a question on any particular article in this form, "Will the Senate advise



to counsel by the ~~common~~ law, but not in capital cases. *Seld. J. d.* 102—5.

Answer. The answer need not observe great strictness of form. He may plead guilty as to part, and defend as to the residue; or, saving all exceptions, deny the whole, or give a particular answer to each article separately. 1 *Rush.* 274. 2. *Rush.* 1374. 12 *Parl. Hist.* 442. 3 *Lords' Journ.* 13 Nov. 1643. 2 *Wood.* 607. But he cannot plead a pardon in bar to the impeachment. 2 *Wood.* 615. 2 *St. Tr.* 735.

Replication, Rejoinder, &c. There may be a replication, rejoinder, &c. *Sel. Jud.* 114. 8 *Grey's Deb.* 233. *Sach. Tr.* 15. *Jour. H. of Commons*, 6 March, 1640, 1.

Witnesses. The practice is to swear the witnesses in open House, and then examine them there; or a committee may be named, who shall examine them in committee, either on interrogatories agreed on in the House, or such as the committee in their discretion shall demand. *Seld. Jud.* 120, 123.

Jury. In the case of Alice Pierce, 1 *R.* 2, a jury was empannelled for her trial before a committee. *Seld. Jud.* 123. But this was on a complaint, not on impeachment by the commons.—*Seld. Jud.* 163. It must also have been for a misdemeanour only, as the lords spiritual sat in the case, which they do on misdemeanours, but not in capital cases. *Id.* 148. The judgment was a forfeiture of all her lands and goods. *Id.* 188. This, Selden says, is the only jury he finds recorded in parliament for misdemeanours: but he makes no doubt, if the delinquent doth put himself on the

trial of his country, a jury ought to be empannelled, and he adds that it is not so on impeachment by the commons; for they are *in loco proprio*, and there no jury ought to be empannelled. *Id.* 124. The *Ld. Berkeley*, 6 *E.* 3, was arraigned for the murder of *L.* 2, on an information on the part of the king, and not on impeachment of the commons; for then they had been *patria sua*. He waived his peerage, and was tried by a jury of Gloucestershire and Warwickshire. *Id.* 125. In 1 *H.* 7, the commons protest that they are not to be considered as parties to any judgment given, or hereafter to be given in parliament. *Id.* 133. They have been generally, and more justly considered, as is before stated, as the grand jury. For the conceit of Selden is certainly not accurate, and they are the *patria sua* of the accused, and that the lords do only judge, but not try. It is undeniable that they do try. For they examine witnesses as to the facts, and acquit or condemn, according to their own belief of them. And Lord Hale says, “the peers are judges of law as well as of fact.” 2 *Hale, P. C.* 275. Consequently of fact as well as of law.

Presence of commons. The commons are to be present at the examination of witnesses. *Seld. Jud.* 124. Indeed they are to attend throughout, either as a committee of the whole House, or otherwise, at discretion, appoint managers to conduct the proofs. *Rushw. Tr. of Straff.* 37. *Com. Journ.* 4 Feb. 1709—10. 2 *Woodd.* 614. And judgment is not to be given till they demand it. *Seld. Jud.* 124. But they are not to be present on impeachment when the lords consider of the

answer or proofs, and determine of their judgment. Their presence, however, is necessary at the answer and judgment in cases capital. *Id.* 58. 159, as well as not capital, 162. The lords debate the judgment among themselves. Then the vote is first taken on the question of guilty or not guilty; and if they convict, the question, or particular sentence, is out of that which seemeth to be most generally agreed on. *Seld. Jud.* 167. 2 *Woodd.* 612.

**Judgment.** Judgments in parliament, for death, have been strictly guided per legem terræ, which they cannot alter; and not at all according to their discretion. They can neither omit any part of the legal judgment, nor add to it. Their sentence must be secundum, non ultra legem. *Seld. Jud.* 168—171. This trial, though it varies in external ceremony yet differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments, prevail. For impeachments are not framed to alter the law, but to carry it into more effectual execution against too powerful delinquents. The judgment, therefore, is to be such as is warranted by legal principles or precedents. 6 *Sta. Tr.* 14. 2 *Woodd.* 611. The chancellor gives judgment in misdemeanours; the lord high steward formerly in cases of life and death. *Seld. Jud.* 180. But now the steward is deemed not necessary. *Fost.* 144. 2 *Woodd.* 613. In misdemeanours the greatest corporal punishment hath been imprisonment. *Seld. Jud.* 184. The king's assent is necessary in capi-

tal judgments, (but 2 *Wood*. 614, contra) but not in misdemeanours. *Seld. Jud.* 136.

Continuance. An impeachment is not discontinued by the dissolution of parliament; but may be resumed by the new parliament. *T. Ray.* 383. 4 *Com. Journ.* 23 Dec. 1790. *Lords' Jour.* May 16, 1791. 2 *Woodd.* 618.



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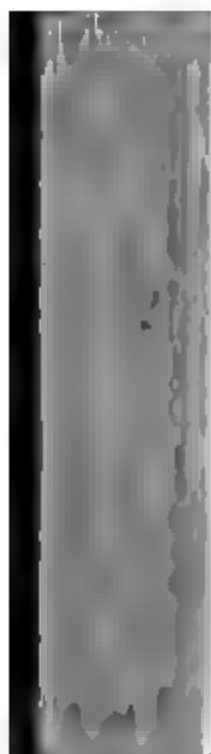
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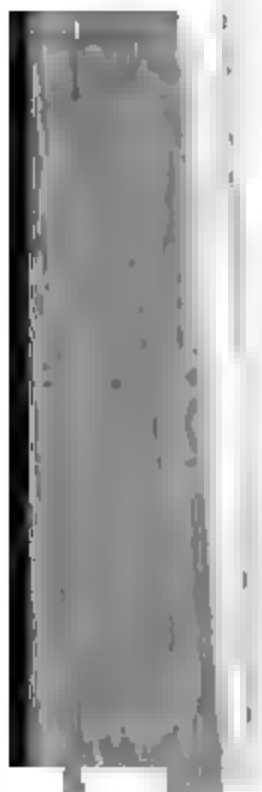


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